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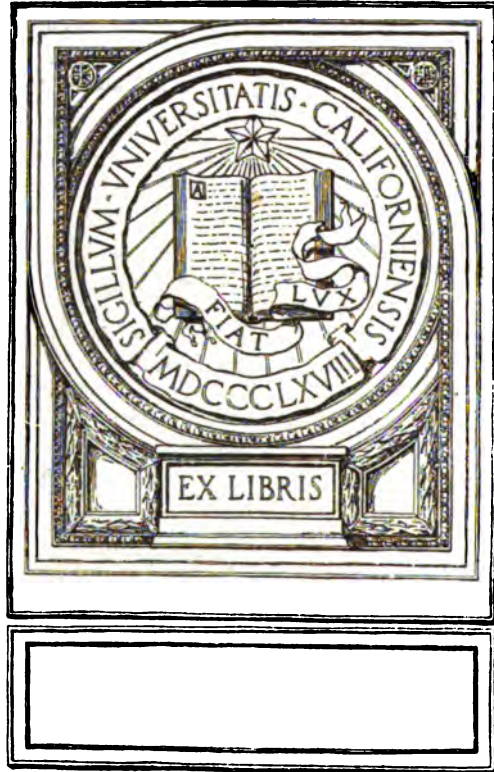
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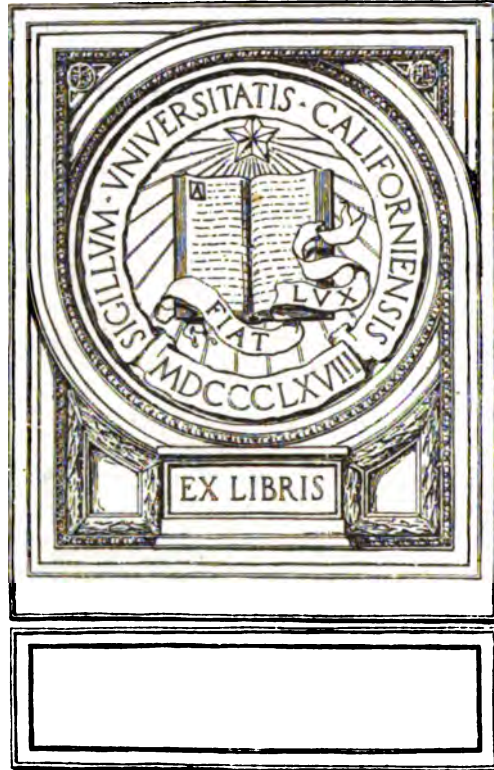
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EXCHANGE





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EDITOR  
BENJAMIN L. SWANBERG  
Managing Editor: DAN E. CLARK

VOL X

JANUARY 1912

No. 1

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## THE IOWA JOURNAL OF HISTORY AND POLITICAL SCIENCE

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BENJAMIN F. HAMBARD  
Assistant Editor, HENRY CLARK

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**BENJAMIN F. SHAMBAUGH**  
**PROFESSOR OF POLITICAL SCIENCE**  
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**THE IOWA JOURNAL OF HISTORY AND POLITICS**  
**JANUARY NINETEEN HUNDRED TWELVE**  
**VOLUME TEN NUMBER ONE**

**VOL. X—1**



## HISTORY OF THE CODES OF IOWA LAW

## II

## THE CODE OF 1851

## INTRODUCTION

On December 28, 1846, an act was approved which admitted Iowa into the Union on an equal footing with the original thirteen States.<sup>1</sup> The first State legislature, however, had already convened at Iowa City on November 30th, had effected organization, and had enacted some legislation.<sup>2</sup> At this time the laws in force in Iowa could not readily be ascertained. The earlier legislation of the Territorial period had been printed, it is true, in *The Old Blue Book* and *The Blue Book*; but these compilations contained only a portion of the statute law. *The Blue Book* had been published in 1843, and during the four year period between 1843 and December, 1846, a great mass of legislation was enacted. Then, too, many of the earlier laws had been repealed or partially amended, so that it was sometimes difficult to determine whether a given statute or provision was or was not the law. The poor arrangement in the Territorial compilations was also a factor which increased the labor of discovering the law in this tangled mass of legislation.

The first suggestion of an official nature that the laws of the State should be revised and properly codified is found in the speech of acceptance of Mr. Thomas Baker, the President of the Senate, who said:

<sup>1</sup> Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, p. 130. Also *United States Statutes at Large*, Vol. IX, p. 117.

<sup>2</sup> *Senate Journal*, 1846-1847, p. 3; also *Laws of Iowa*, 1846-1847, pp. 19, 20.

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You have many important duties to perform during the present session — among which is to establish a code of laws for the government of the State, in conformity to the constitution, which is to constitute the basis of our action and supremacy of our laws.<sup>3</sup>

On the following day, December 2, 1846, Governor James Clarke, the retiring Territorial Governor, in his second and last annual message to the legislature, likewise declared in favor of early codification in the following words:

The period has arrived when a complete revision of the laws of Iowa is on all hands expected. The want of such a code has been felt and acknowledged for years, but it was deemed inexpedient to commence its compilation until after the organization of a State Government. In calling the attention of the Legislature to the subject now, I feel that I need but refer to its importance to insure immediate and favorable action. The confusion which pervades our statute enactments is injurious in its tendencies, and, if permitted to continue, it will be disreputable to the character of the State. Nor will it be an easy task to collect, harmonize and put into proper shape the incongruous legislation of eight years — but a work of time and labor, which should be committed to none but able hands. I cannot but express the hope that, in authorizing such a revision, the State will avail itself of its best legal talent — whether it be deemed advisable to institute a special commission for the purpose, or, as has been done elsewhere, some gentleman learned in the law be authorized to perform the work, with a guarantee that the State will subscribe and pay a stipulated price for a certain number of copies upon their delivery; in either case the State should prescribe the arrangement and execution of the work in the fullest manner possible.<sup>4</sup>

The suggestions of Governor Clarke seemed to meet with some consideration in the newly organized Senate. On Friday, December 4, 1846, Mr. Evan Jay of Henry County offered the following resolution:

<sup>3</sup> *Senate Journal*, 1846-1847, p. 5.

<sup>4</sup> *Senate Journal*, 1846-1847, p. 19; also Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, p. 345.

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of reporting a bill providing for the revision of the laws of the State by a board of commissioners.<sup>5</sup>

This resolution was laid on the table, but on the following Wednesday a similar resolution was again offered by Mr. Jay, calling on the Judiciary Committee to report "their views as to the expediency of a revision of the laws."<sup>6</sup> Two days later this committee made a report to the Senate through Mr. S. A. Bissell which reads:

Your committee are of opinion that a revision of the laws is highly necessary, and that it would be both politic and expedient for the General Assembly, at its present session, to appoint a committee of ———, whose duty it should be to revise and harmonize the laws now in force, and draft such further laws as may be necessary to make our civil and criminal code as perfect as may be, and report the same to the General Assembly on or by the ——— day of ———, by bill.<sup>7</sup>

Nothing seems to have been done with this report except to lay it on the table;<sup>8</sup> but the President of the Senate, Mr. Thomas Baker, on December 14, 1846, introduced a joint resolution relative to the revision of the laws.<sup>9</sup> On another reading the resolution was indefinitely postponed, and does not appear to have ever been reconsidered.<sup>10</sup>

Over a month later, on January 25, 1847, Mr. Milton D. Browning, from the Committee on the Judiciary, presented a bill calling "for the appointment of commissioners to draft, revise, and arrange a code of laws".<sup>11</sup> With the addition of a few amendments this resolution passed the

<sup>5</sup> *Senate Journal*, 1846-1847, p. 27.

<sup>6</sup> *Senate Journal*, 1846-1847, p. 35.

<sup>7</sup> *Senate Journal*, 1846-1847, p. 39.

<sup>8</sup> *Senate Journal*, 1846-1847, p. 39.

<sup>9</sup> *Senate Journal*, 1846-1847, p. 44.

<sup>10</sup> *Senate Journal*, 1846-1847, p. 54.

<sup>11</sup> *Senate Journal*, 1846-1847, p. 141.

Senate,<sup>12</sup> but was indefinitely postponed in the House,<sup>13</sup> which was the end of all attempts at codification during the first session of the General Assembly.

One cause assigned for the action of the House was that since a majority of its members were Whigs they would not give aid to the bill lest the Democrats, who were in control of the Senate, would gain some political advantage from the measure.<sup>14</sup> This charge was, however, stoutly denied by one of the leading Whig papers, and early in the session, after the Senate had voted favorably on one of the above resolutions, the editor of this paper wrote approvingly of the Senate's action. After calling attention to the favorable action of the Senate on the bill he gave it as his view that the House would concur in the action of the upper chamber, thus saving thousands of dollars to the State. The work was, in his opinion, one of great labor which could not be completed by any method in a shorter period than six months.

The editor then proposed two plans for the consideration of the legislature. One called for the appointment of a commission of three, who should prepare bills for the deliberation of the legislature when it should re-convene. The other plan suggested was to cause all acts of the Territorial and State periods to be reprinted with complete marginal notes. The latter plan, he thought, would meet with the favor of the legal profession; "but the people require and demand a *revised code*." In either event, the perfection of the Code would depend on the "specific directions" which the bill creating the board of revision would contain; as codifiers in other States had, in some in-

<sup>12</sup> *Senate Journal*, 1846-1847, p. 214.

<sup>13</sup> *Senate Journal*, 1846-1847, p. 228.

<sup>14</sup> See *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 49, Wednesday, June 9, 1847.

stances, assumed the rôle of legislators when allowed too great latitude in making revisions, thus causing their labors to be rejected.<sup>15</sup>

The opinion seemed quite general that whenever done the codification or compilation of the laws should be executed by a commission appointed for that purpose, and that the results of their labors should be submitted to the law-making body for approval or rejection. There seems to have been little, if any, consideration of the plan which was adopted by the Territorial legislature — that is, of having the work done by the legislature itself during the regular session. The product of such revision during the Territorial period had proved more or less unsatisfactory. Indeed, the proper codification of the laws was a task too great and too exacting to be successfully performed along with other legislative work. Furthermore, it was thought that the work of codification should be put into the hands of skilled men — persons especially equipped with knowledge and experience. The newspapers frequently urged the appointment of such a commission, and a year after the admission of Iowa into the Union one of the leading capital papers, after calling attention to the fact that it had advocated the creation of a board or committee to revise the laws at the previous session and had regretted that a bill to this effect had been postponed, once more declared itself strongly in favor of this method of revision. One of its chief arguments for such a method was the great saving in expense — the writer estimating that the cost would be four thousand dollars if done by a committee of revision, and twenty thousand dollars if attempted by the legislature.<sup>16</sup>

<sup>15</sup> *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 27, Wednesday, December 16, 1846.

<sup>16</sup> *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 19, Wednesday, December 29, 1847.

The article then detailed a plan concerning the manner in which the labor should be conducted. It suggested that the commission prepare bills, number them, and have them printed and filed to be presented to the legislature in the same form as bills from one of the regular legislative committees. But the writer was decidedly unfriendly to allowing the committee the power to prepare a code that would be rejected or accepted as a whole, since such a method might throw several thousand dollars worth of printing to some editor, and if rejected the State would receive nothing in return.<sup>17</sup>

#### THE CREATION OF THE CODE COMMISSION

On December 3, 1847, Governor Ansel Briggs issued a proclamation convening the General Assembly in special session.<sup>18</sup> When the Assembly met a month later the Governor in his message of January 3, 1848, frankly declared himself in favor of a board of commissioners in these words:

It is a source of regret that so much confusion prevails in our Statute Laws. The interests of the state, in my opinion, call for a revision of those laws as soon as practicable. Should you coincide with the executive in this opinion, I would respectfully recommend that a commissioner or commissioners be appointed to revise the code; and that they be instructed or required to report their proceedings at the next regular session of the General Assembly.<sup>19</sup>

It is true that similar suggestions had been made in the Territorial period, but without effect.<sup>20</sup> Indeed, the two

<sup>17</sup> *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 19, Wednesday, December 29, 1847.

<sup>18</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, pp. 418, 419.

<sup>19</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, pp. 374, 375.

<sup>20</sup> See Powell's *History of the Codes of Iowa Law* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. IX, p. 498.

compilations of that period were prepared by the Legislative Assembly without the assistance of any board or commissioner other than the Territorial Secretary and the judges of the Supreme Court. The recommendation of Governor Briggs now met with favor among the members of the General Assembly, and in less than a month an act was passed which authorized the preparation of Iowa's first real code — the *Code of 1851*.

On Friday, January 7, 1848, a resolution was introduced into the House of Representatives requiring the Judiciary Committee to report "by Bill or otherwise", upon that portion of Governor Briggs's message which referred to a revision of the laws by commissioners.<sup>21</sup> Following the adoption of this resolution Mr. John T. Morton from the Committee on the Judiciary introduced House File No. 6 which was "A Bill for an act to provide for revising and digesting the laws".<sup>22</sup> Later the same gentleman introduced a substitute for this bill which provided "for the appointment of Commissioners to prepare a code of laws", which substitute was immediately adopted by the House.<sup>23</sup>

When the House bill reached the Senate it was referred to the Committee on the Judiciary, by whom it was reported back to the Senate without amendment.<sup>24</sup> When the bill came up for discussion; however, there was a division of opinion as to the personnel of the commission. The names "Davis and Palmer" were struck out; but a similar attempt relative to the name of Chief Justice Mason met with failure.<sup>25</sup> Upon its final reading the bill was referred to a select committee composed of Philip B. Bradley, Thomas

<sup>21</sup> *House Journal*, Extra Session, 1848, p. 42.

<sup>22</sup> *House Journal*, Extra Session, 1848, p. 46.

<sup>23</sup> *House Journal*, Extra Session, 1848, p. 106.

<sup>24</sup> *Senate Journal*, Extra Session, 1848, p. 69.

<sup>25</sup> *Senate Journal*, Extra Session, 1848, p. 76.

H. Benton, Jr., and Francis Springer, who reported it back as it had come from the House, recommending its passage.<sup>26</sup> Various amendments were immediately offered on the floor of the Senate, but these were all lost and the bill was ordered to lie over a day before being put upon its final passage.<sup>27</sup> On the following day, however, the Senate sent it back a second time to the Judiciary Committee, who again "Reported the same back without amendment and recommended its passage."<sup>28</sup> The bill having passed the Senate under the title "An Act to provide for the appointing of Commissioners to draft, revise and arrange a Code of Laws" was presented to Governor Briggs, who signed the same on January 25, 1848.<sup>29</sup> The provisions of this act, by which Iowa's first code commission was created, are as follows:

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa*, That Charles Mason, of the county of Des Moines, William G. Wood[w]ard, of the county of Muscatine, and Stephen Hempstead, of the county of Dubuque, be and they are hereby appointed a committee to draft, revise and prepare a code of laws for the State of Iowa.

§2. Said commissioners, when qualified as hereinafter provided, shall meet together, at some place to be selected by a majority of said commissioners, and enter upon the discharge of their duties.

§3. Said commissioners shall be governed in their deliberations by the following rules: *First*, They shall choose one of their number to preside over their deliberations, who shall decide all questions of order, and may vote upon all matters brought before them in case of a tie. Each bill, as it is prepared, shall be *examined and considered* by them when in session, and altered or amended as a majority of them may decide, and when finally acted upon shall be recorded by them, or under their direction, in a plain, legible

<sup>26</sup> *Senate Journal*, Extra Session, 1848, pp. 88, 89.

<sup>27</sup> *Senate Journal*, Extra Session, 1848, p. 90.

<sup>28</sup> *Senate Journal*, Extra Session, 1848, p. 112.

<sup>29</sup> *Laws of Iowa*, Extra Session, 1848, pp. 42-44.

hand, in a book to be provided by them for that purpose, with plain marginal notes to each act.

§4. The said commissioners shall regulate the time and place of their meeting and adjourning, and may change at pleasure their place of deliberations.

§5. Said commissioners shall prepare a complete and perfect code of laws, as nearly as may be, of a general nature only, and furnish a complete index to the same when completed.

§6. Said commissioners shall keep, or cause to be kept, a journal of their proceedings, from day to day, the time and place when met, what commissioners were present, and what business was transacted at each meeting.

§7. No Commissioner shall be permitted to absent himself from the sessions of said board, except in cases of absolute necessity, and then only by leave of said board, which leave shall be entered on their journals, and the length of time for which he is permitted to be absent.

§8. No business shall be transacted by said board, other than to adjourn from day to day, unless all of said commissioners be present, except in the case mentioned in the preceding section, when one of said commissioners has been excused, and in that case, the other two may proceed to transact business.

§9. Said commissioners shall report said code, with the proper marginal notes and index, under the certificate of their President, to the Governor, at the earliest practicable period, together with a correct journal of their proceedings.

§10. Said commissioners, before they shall be qualified to act as such, shall each take and subscribe the following oath or affirmation: "I, \_\_\_\_\_, appointed by the General Assembly of the State of Iowa, to draft, revise and prepare a code of laws for said state, do solemnly swear, or affirm, (as the case may be,) that I will faithfully and impartially discharge the trust reposed in me by said state, that I will strictly, to the best of skill, ability and fidelity, observe the rules laid down in the law under which I am appointed, and that I will discharge all of the duties required of me as commissioner, with an eye single to the good of the people of the State of Iowa;" which said oath shall be certified by the officer administering the same, and filed in the office of the Secretary of State.

§11. Said commissioners may make and adopt such rules and regulations for the government of their body, as a majority of them may think fit, not repugnant to any of the provisions of this act.

§12. Said commissioners may purchase, at the expense of the state, such books, writing paper, ink, quills, and sand, as is necessary and proper to enable them to carry out the provisions of this act; but all other expenses shall be borne by said commissioners.

§13. Said commissioners shall each receive the sum of one thousand dollars, to be paid out of any money in the treasury not otherwise appropriated, to be paid after their report has been accepted by the General Assembly; but should the place of one of the commissioners become vacant, he shall only be paid in proportion to the time he actually served; and in case of a vacancy, the other two commissioners shall fill such vacancy; and the person thus appointed, shall be paid in proportion to the time he actually serves, and who shall also take oath and qualify as the other commissioners.

§14. This act to take effect and be in force from and after its publication in the weekly newspapers printed in Iowa City.

Approved, January 25, 1848.<sup>30</sup>

In addition to the above statute, a joint resolution was passed which granted the committee of revision the privilege of drawing books from the State Library.<sup>31</sup>

The members of the board or commission thus appointed by the General Assembly were men eminently qualified for the task. Charles Mason, the chairman of the commission, has been described by Justice Horace E. Deemer as "one of the most learned and scholarly men who ever graced a seat upon any bench."<sup>32</sup> He was born in New York in 1804, and in 1825 entered the United States Military Academy at West Point, graduating in 1829 at the head of a class made famous by such names as Robert E. Lee and

<sup>30</sup> *Laws of Iowa*, Extra Session, 1848, pp. 42-44.

<sup>31</sup> *Laws of Iowa*, Extra Session, 1848, pp. 93, 94.

<sup>32</sup> Deemer's *The Part of Iowa Men in the Organization of Nebraska* in the *Annals of Iowa*, 3rd Series, Vol. IX, p. 176.

Joseph E. Johnston.<sup>33</sup> For two years following his graduation he served as assistant professor of engineering at the Academy; and it was during this period that he acquired a knowledge of the law. When he resigned from army life he located at Newburg, New York, from which place he removed to New York City. Here he often contributed to the *Evening Post*, then edited by William Cullen Bryant.<sup>34</sup> Coming to the Iowa country while it was yet a part of the original Territory of Wisconsin, Mr. Mason entered the public service as District Attorney for Des Moines County. In 1838 he received the appointment of Chief Justice of the Supreme Court of the Territory, which position he held until Iowa's admission in 1846.<sup>35</sup>

Judge William G. Woodward, the only Whig member on the commission, was born at Hanover, New Hampshire, in 1808.<sup>36</sup> He was educated at Dartmouth College — an institution in which his father was deeply interested, having been defendant in the famous Dartmouth College case.<sup>37</sup> After receiving his degree he studied law and located in Boston with his cousin, Benjamin R. Curtis — who later wrote the dissenting opinion in the famous Dred Scott case.<sup>38</sup> In 1839 Judge Woodward removed to Iowa on account of his health and located at Bloomington (now Muscatine). From 1855 to 1860 he served on the Supreme Bench of Iowa.

<sup>33</sup> *The Centennial of the United States Military Academy at West Point, New York 1802-1902*, Vol. II, p. 418. See also Heitman's *Historical Register and Dictionary of the United States Army*, Vol. I, p. 694.

<sup>34</sup> For a biography of Charles Mason see McClain's *Charles Mason — Iowa's First Jurist* in the *Annals of Iowa*, 3rd Series, Vol. IV, pp. 595-609.

<sup>35</sup> *The Iowa Official Register*, 1911-12, p. 63.

<sup>36</sup> For a biography of William G. Woodward see Brannan's *Judge William G. Woodward* in the *Annals of Iowa*, 3rd Series, Vol. VII, pp. 619-624.

<sup>37</sup> *Trustees of Dartmouth College v. Woodward*, 4 Wheaton, 518; 4 Curtis, 463.

<sup>38</sup> *Dred Scott v. Sandford*, 19 Howard, 393.

Mr. Stephen Hempstead, who later became the second Governor of Iowa, was a Democrat in politics.<sup>39</sup> He was born in New London, Connecticut, on October 1, 1812, and came to St. Louis with his father in 1828 or 1829. From St. Louis he went to Galena, Illinois, the seat of the lead-mining industry. After serving in the Black Hawk War he entered Illinois College at Jacksonville, and later studied law under the direction of his uncle, Charles Hempstead. In 1836 he located at Dubuque, which was then in the original Territory of Wisconsin. Besides representing his county in the Territorial legislature for several sessions he sat as a delegate in the Constitutional Convention of 1844.<sup>40</sup>

The confidence which the public at large as well as the General Assembly seemed to place in the ability and integrity of these gentlemen is expressed in the following correspondence to *The Burlington Tri-Weekly Telegraph*, one of the leading papers of the day:

It should be remembered that those commissioners are distinguished, and justly so, for their high moral worth, sound judgment, and excellent legal attainments; that they have been familiar with our laws, as practitioners, from our earliest organization as a Territory, and more or less identified with our public service for the past twelve years. They were presumed to be not only familiar with the bearing of all our laws and the practice under them in our courts of justice, but also fully advised of the wants and interests of our entire population — otherwise they never could have been appointed to the important trust of preparing a code of laws for our government. And we have good reason to know that a universal confidence has been entertained from the beginning that this trust would be faithfully and satisfactorily performed.<sup>41</sup>

<sup>39</sup> For a brief biographical sketch see Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, p. 423.

<sup>40</sup> *The Iowa Official Register*, 1911-12, p. 67.

<sup>41</sup> *The Burlington Tri-Weekly Telegraph*, Vol. I, No. 84, Thursday, December 19, 1850.

## LEGISLATIVE DISCUSSION

The second regular session of the General Assembly convened on December 4, 1848.<sup>42</sup> Five days later a resolution was introduced into the House requesting the Governor "to inform this House whether the Commissioners, appointed to revise the laws of this State, are now, or ever have been, in session for the purpose for which they have been appointed; and if so, whether they have prepared, examined or considered any one Bill, or Bills; or whether they have in any manner performed any portion of the duties devolving upon them, as Commissioners to revise and report a Code of Laws."<sup>43</sup> Governor Briggs promptly informed the House that all the reports that he had received from the Commissioners had already been transmitted to the legislature along with his message, from which it appeared that the Commissioners "have not been able to complete the task assigned them, and that it will require from three to five months in order to mature their work."<sup>44</sup> As transmitted by the Governor the labors of the Commissioners for the year 1848 were reported as follows:

The great mass of the work is in writing, but we have not been able to give it that consideration which it demands before it is presented. The work of revising and writing *alone* has required the greater portion of the time since it was commenced. To *digest* it is the more important part of our task, and which remains to be done.

The importance of the work, and the consequences which will flow from a good or bad performance of it, are so great, that the undersigned are not willing to pass it without the most mature care. The revised code is intended to be a *permanent* work. All future legislation will have relation to it. If it is made complete and harmonious, but little legislation will be hereafter required on subjects of a general nature. If it is left incomplete and incongruous,

<sup>42</sup> *Senate Journal*, 1848-1849, p. 3.

<sup>43</sup> *House Journal*, 1848-1849, p. 133.

<sup>44</sup> *House Journal*, 1848-1849, p. 179. See also *House Journal*, 1848-1849, p. 23.

it will require repeated amendments and alterations, until we shall no longer have a *code*. Unless such a work receives the maturest care and consideration, it were as well if it were not undertaken.

Your excellency will permit us to suggest that in no case, we believe, has a *whole* code of Statute law been prepared in one year. In Massachusetts two years were allowed three commissioners to prepare the criminal portion alone of their code. The commissioners of the revision in New York, at the end of the first year reported upon only one department of the Statute law.

You will permit us to suggest further, that several radical changes in important branches were expected in a revision, and though the undersigned are prompt to adopt such, yet they should not be made without the most mature consideration.

In presenting these views, sir, we have (in the words of our oath) "an eye single to the good of the people of Iowa;" and in presenting them, we trust we shall receive the indulgence of the General Assembly.

If we were permitted a suggestion, it would be, that the present session be made a brief one, and that an adjournment take place to a future day some months hence.

We are your Excellency's

With sentiments of

High consideration,

W. G. WOODWARD,

CHARLES MASON,

S. HEMPSTEAD.<sup>45</sup>

The Senate referred this report to the Judiciary Committee, who reported a joint resolution on December 12, 1848. The report of this committee, which illustrates the high regard in which the Code Commissioners were held by members of the legislature and the importance attached to the work of enacting a code of laws is here given in full.

The subject involves much that is of vital interest to the citizens of the State. The revising committee have been appointed for the discharge of a duty, the full and faithful performance of which, necessarily required of those entrusted with it, diligence, patience, perseverance, and high legal attainment.—We deem it just to say

<sup>45</sup> *House Journal*, 1848-1849, pp. 23, 24.

of the persons composing the committee of revision, that they have our highest confidence in their ability and desire to reflect honor upon themselves and confer enduring benefit upon the State, by performing the high duty assigned them, in the best manner possible, and with all proper dispatch. To them, and the Legislature of our young, fertile, and fair State does our rapidly increasing population, with intense interest, look with hope and confidence for the establishment, maintenance and permanency of civil prosperity and security, by the preparation and enactment of such a code of laws as will be in accordance with the spirit of the day in which we live, and lay a safe and firm foundation for the future. We feel assured that the honorable committee, whose report we have carefully examined and considered, entertain an enlightened view of its position in the relation it sustains to the State; and that the persons composing it, feel themselves actuated by a sincere desire to perform the task entrusted to them, as well and speedily as its importance will allow. To collect the material necessary for such a work, requires great labor and much research, directed by an enlightened judgment, and experience. To adjust and harmoniously arrange the matter collected, into a perfect system, is the work of a master statesman and jurist, possessed of lights both old and new. To urge hasty action on the committee, or call for the work already done in an unfinished condition, in order to complete it by the ordinary process in legislation, would only thwart the Legislature in the accomplishment of the design which induced the appointment of the committee of revision. By granting further and full time to the committee to finish their work, no additional expense will be incurred by the State.

It is therefore the opinion of this committee, that the Committee of Revision, on the criminal and civil code, have further time to report.

In accordance with the views above expressed, and to carry out the purpose by the proper acts of legislation, this committee respectfully recommend the passage of the following resolutions, viz:

1st. *Resolved, by the General Assembly of the State of Iowa,* That when this legislative assembly adjourn, it will adjourn *sine die*.

2d. *Resolved,* That the committee appointed by the last Legislative Assembly to draft, revise and prepare a e[c]ode of laws for the State of Iowa, have further time to report, and that they are

hereby requested to notify the Governor of this State of their preparation and readiness to report as soon as practicable, and that as soon thereafter, as may be convenient, he be requested to convene the General Assembly, in order to receive and set upon the code then reported by the Commissioners.<sup>46</sup>

This resolution passed the Senate, but in the House all after the words "*sine die*" was struck out.<sup>47</sup> The Senate refused to concur in this arrangement and consequently the resolution was never adopted.<sup>48</sup> Indeed, it was unnecessary, as the law appointing the Commissioners provided that they should "report said code . . . to the Governor, at the earliest practicable period".<sup>49</sup> And so the second session of the General Assembly adjourned without taking any further action in reference to the work of codifying the laws.

Two years later, on December 2, 1850, when the Third General Assembly convened it was felt generally that this session would be a very important one since it was to decide the fate of codification.<sup>50</sup> The *Miners' Express* (Dubuque) declared that the revision of the code was "the main business of the session".<sup>51</sup> The *Burlington Tri-Weekly Telegraph* informed its readers that "the great business of the session will be the action upon the report of the committee of revision."<sup>52</sup> Another leading newspaper, in speaking of the General Assembly, declared that "no doubt the people will look to the proceedings of this

<sup>46</sup> *Senate Journal*, 1848-1849, pp. 42, 43.

<sup>47</sup> *Senate Journal*, 1848-1849, p. 43; and *House Journal*, 1848-1849, p. 218.

<sup>48</sup> *House Journal*, 1848-1849, p. 230.

<sup>49</sup> *Laws of Iowa*, Extra Session, 1848, p. 43.

<sup>50</sup> *Senate Journal*, 1850-1851, p. 3.

<sup>51</sup> *Miners' Express* (Dubuque), Vol. X, No. 15, Wednesday, December 18, 1850.

<sup>52</sup> *Iowa City Correspondence in The Burlington Tri-Weekly Telegraph*, Vol. I, No. 86, Tuesday, December 24, 1850.

honorable Body with much interest. . . . An entire new code of laws will be presented by the Revising Committee, for the consideration and action of the General Assembly. We hope soon to have a code of laws that will harmonize with itself, so that one provision in one act, will not conflict with some provision in some other act, as is sometimes the case in the present code."<sup>53</sup>

In his message of December 3, 1850, Governor Briggs informed the legislature that "the Commissioners to revise the Code, have informed me that their labors are nearly completed."<sup>54</sup> In the same message he also transmitted a portion of the Commissioners' report. In this report, which was dated at Iowa City on December 2, 1850, and addressed to Governor Briggs, the Commissioners say:

That their work is substantially done, and in doing it they have complied with the manner prescribed by the act, substantially and as nearly as was practicable.

They submit herewith an analysis of the subjects contained in the first part or division of the work, together with the first titles or sub-divisions opening the same. The papers constituting the remainder of the work will be submitted in their order, as speedily as they are arranged and put into a form adapted for submission, and at as early a day as the General Assembly may have need of them.

They do not propose to enter into a detail of changes made by them as this can be better ascertained from a regular examination of the work, and can be better pointed out and explained in a different manner hereafter.

A few chapters have been left yet unfinished, for consultation with the officers of the Government, or for information to be derived from their reports, and such portions will be soon completed and reported.<sup>55</sup>

<sup>53</sup> *Iowa Star* (Fort Des Moines), Vol. II, No. 4, Thursday, November 28, 1850.

<sup>54</sup> *Senate Journal*, 1850-1851, p. 14.

<sup>55</sup> *Senate Journal*, 1850-1851, pp. 24, 25.

In the House there was a desire to examine the report in considerable detail; but in the Senate, on the other hand, there seems to have been a willingness to accept the report with little or no change. The Judiciary Committee in the House was composed of Gilman Folsom, Isaac M. Preston, Charles Negus, John Thompson, and Theophilus Crawford.<sup>56</sup> Mr. Folsom in particular took a very important part in the discussions of the proposed code.<sup>57</sup> He was appointed as the chairman of a committee which was instructed to act with a similar committee from the Senate "to correspond or confer" with the Commissioners and to "ascertain whether said committee are at this time prepared to report a complete and perfect code to the Governor of said State, or any part thereof, and if so, how much and what part of said code."<sup>58</sup> When this resolution reached the Senate it was referred to the Judiciary Committee by whom, for some reason, it seems never to have been reported.<sup>59</sup>

Early in the session a joint resolution had been introduced in the Senate requesting the services of Charles Mason and William G. Woodward "in explanation of the new code of laws".<sup>60</sup> The House did not look with favor upon this procedure and accordingly defeated the Senate resolution.<sup>61</sup> Why the House took this attitude is not stated; but it was asserted that "notwithstanding this action of the House, it is understood that the Commissioners will remain in the City, and will be ready at all times to

<sup>56</sup> *House Journal*, 1850-1851, p. 27.

<sup>57</sup> Various notices of the part that Mr. Folsom took in the debates are to be found in the newspapers of the period in question. See the *Miners' Express* (Dubuque), Vol. X, No. 16, Wednesday, December 25, 1850.

<sup>58</sup> *House Journal*, 1850-1851, p. 38.

<sup>59</sup> *Senate Journal*, 1850-1851, p. 36.

<sup>60</sup> *Senate Journal*, 1850-1851, p. 35.

<sup>61</sup> *House Journal*, 1850-1851, p. 55.

render such assistance, by way of explanation, as is in their power to do."<sup>62</sup>

#### THE PRINTING OF THE CODE

The Code when first received from the Commissioners was in manuscript form and the question of having it printed was as perplexing as it was important. A committee of three, consisting of George G. Wright, Warner Lewis, and H. B. Hendershott, was appointed from the Senate to confer with a similar committee on the part of the House, whose duty it was "to report at an early day what portions, if any, of said report it will be necessary to have printed."<sup>63</sup> The representatives from the lower branch of the legislature were B. R. Harbour, Isaac M. Preston, Theophilus Crawford, William Harper, and Peyton Wilson.<sup>64</sup> A resolution was offered in the House to instruct the Representatives on this committee to "insist that one hundred copies of the entire code be printed in a speedy manner for the use of the members of this House."<sup>65</sup> Although this resolution failed, the House did, on December 14, 1850, order that one hundred thirty copies of the greater portion of the Code be printed "for the use of the General Assembly."<sup>66</sup> The report of the joint committee, which had selected only certain titles and sections to be printed, was laid on the table.<sup>67</sup> The greatest objection to printing seems to have been questions of economy on the part of the legislature and, on the part of the people, the fear that if printed the report of the Commissioners would be badly mutilated by amendments.

<sup>62</sup> *Miners' Express* (Dubuque), Vol. X, No. 15, Wednesday, December 18, 1850.

<sup>63</sup> *Senate Journal*, 1850-1851, p. 34.

<sup>64</sup> *House Journal*, 1850-1851, p. 50.

<sup>65</sup> *House Journal*, 1850-1851, pp. 56, 57.

<sup>66</sup> *House Journal*, 1850-1851, p. 70.

<sup>67</sup> *House Journal*, 1850-1851, p. 60.

The discussion relative to the printing clearly shows that the situation in reference to the Code was critical. The consideration of this question revealed the attitude of the legislators, the opinion of the press, and the interest of the people generally relative to the work of the Commissioners. In examining the newspapers, which are the most illuminating if not the only source of information on this subject, one finds the following in *The Burlington Tri-Weekly Telegraph*, under the caption "The New Code—Let Well Enough Alone":

A friend, writing us from the Capital, under a late date, says: "The committee appointed to revise and report a code of laws, have performed their duty and their report in the main is a good one; but as you must be aware the devil is to get the legislature to let it alone, or in other words to adopt it, without making ten thousand amendments. The House has ordered it all printed, or nearly so, which promises no good for our code of laws."

The misgivings of the public at large, on this subject, it seems are about to be realized. We shall not quarrel with a body which is entitled to our unqualified respect, nor presume to set up our feeble judgment against the wisdom of a legislature which is justly distinguished from all others which have preceded it for intelligence and ability: yet, we will frankly confess that we had entertained the hope that a different course of policy would be pursued by them in this respect, and we as frankly confess our fears that more harm than good will result from the one which they have adopted.

We would not ask men to go blindly to work, nor to trust to the infallibility of other judgments; but we will say that the exercise of a "generous confidence," to some extent at least, in this instance, would have inspired the public mind with better hopes than can be gathered from what appears to be a wholesale proceeding against the report of the commissioners. . . . We sincerely believe that any material alterations on the part of the legislature will disappoint the public expectation, and probably beget a general dissatisfaction with the entire code. We speak thus from no feeling of disrespect to the legislature: we beg leave humbly to tender them assurances of profound regard: but we deem it an imperative

duty incident to our position to bear testimony to the public expectation and the public wish in this respect. It should also be remembered that one of those commissioners is at present the Executive of the State; and it may fairly be presumed that HE at least, looking forward to the high duties about to be devolved upon him, and naturally anxious for the prosperity and happiness of the people over whose interests he had been called to preside, would be peculiarly careful in the preparation of a code which he would be called upon to see executed, and in the introduction of a policy which it would become his duty to carry into effect.

We therefore say to the legislature that these considerations (whether justly or not is another question) have entered into the minds of men, inspired a general confidence, and prepared the public in favor of the code presented by the commissioners. This code has been a long time in preparation, and the people will expect it to come forth comparatively if not entirely free from crudities. If, therefore, the revisory power of the legislature must be exercised in order to an honorable vindication of a delegated sovereignty, we trust it will be done with all the delicacy proper to high life, and that the new candidate for favor (the modest and doubting child of the three commissioners) will be greeted with all the elegant ceremonies of the drawing room, rather than be "put through" the embarrassing ordeal of stern and unmerciful criticism. In fine, we will continue to indulge the hope that the order "to print" augurs a growing passion for literature, rather than an established predilection on the part of any one of our public servants to immortalize himself as a *Lycurgus* "*nolus volus*."<sup>68</sup>

The *Iowa Star* anticipated strong opposition to the code. Through a letter from Iowa City on December 14, 1850, it declared that "the House of Representatives have ordered the principal part of it printed. After this is done, and each member has had an opportunity of giving it a critical examination, we anticipate many attempts at amendment, but with what success remains to be seen."<sup>69</sup>

<sup>68</sup> *The Burlington Tri-Weekly Telegraph*, Vol. I, No. 84, Thursday, December 19, 1850.

<sup>69</sup> *Iowa Star* (Fort Des Moines), Vol. II, No. 8, Thursday, December 26, 1850. Mr. Curtis Bates was the editor of this newspaper.

In the *Miners' Express* is found an excellent summary of the motives controlling the action of the legislators in reference to the printing of the report. Its correspondent writing from Iowa City says:

The question which, more than all others, has engaged the attention of the General Assembly hitherto, and especially that of the members of the House, has been the propriety of printing the revised code previous to Legislative action thereon. Most of the members seem to have come here entirely undecided as to what course was best to be pursued in this matter. It was a question which had perplexed them, and those of their constituents who gave thought to the subject, and how it was to be decided no one could tell. The question of printing, or not printing, was in fact, the question, whether or not the Legislature would examine the code for themselves, or whether they would take it in the main, as it came from the hands of the Commissioners. Whether they should, in this matter, be the Legislators in fact, or mere approbatory assembly, convened to give a formal sanction to what had been done by a comparatively irresponsible Commission.

Some few in the early part of the session, did not hesitate to declare in favor of a thorough examination, and proper legislative action. Others, either from economical motives, a distrust of their ability to amend what had received the sanction of the distinguished legal gentlemen, who had prepared the report, or from some other motives, were willing to pass upon the whole with but a cursory examination, or even none at all.

Among the foremost, in favor of printing, and thoroughly examining the Code, was the gentleman from Johnson, Mr. Fulsom [Folsom]. He did not hesitate to declare himself decidedly opposed to hasty, or unadvised action; he wished time and opportunity to examine the whole Code, and was determined to exercise his right, and stand to the responsibility which pertains to him as a Legislator.

The Senate were in favor of printing a portion of the Code, as reported by a joint committee, raised to enquire into the expediency of the matter, but the House, after several *rather* stormy debates, laid the committee's recommendation upon the table.<sup>10</sup>

<sup>10</sup> *Miners' Express* (Dubuque), Vol. X, No. 16, Wednesday, December 25, 1850.

As finally printed by the House the report made an octavo sized book of four hundred and ninety-five pages and contained the greater portion of the labors of the Commissioners.<sup>71</sup> The resolution which ordered the printing called for only one hundred and thirty copies, and it also provided that the printing should be done "in manner and form similar to the 'auditor's report;' and that said printing . . . shall be laid before the House for the purpose of being read, discussed and referred; and that each part shall be taken up and disposed of in their proper order."<sup>72</sup>

The printed report of the Commissioners is exceedingly rare, the only copy known to the writer being in possession of the Iowa State Law Library in the State House at Des Moines. It comprises, as stated above, four hundred ninety-five pages and contains neither notes nor comments of any kind. As to contents the report is almost identical with the Code as finally enacted, only slight changes being made here and there by the legislature. The report begins with Part One, Title III, Chapter 5 — which is the chapter entitled *County Judge*. The title page of this rare book reads:

<sup>71</sup> The copy of this report which was used by the writer is in possession of the Iowa State Library at Des Moines. In a letter from Mr. A. J. Small, the Law Librarian, dated August 19, 1911, he declares: "I do not know of another copy. I hunted and looked for more than a dozen years for the report of 1851, but finally found one in a second hand shop in Chicago." The name "E. Lowe" appears upon the fly leaf and no doubt the copy is the one which Mr. Lowe used as the President of the Senate. The *Report of the Code Commissioners* is bound with the *Engineers Report on the Davenport & Iowa City Railroad*, the *Report of the Committee on Federal Relations*, 1850; and the *Biennial Report of the Board of Public Works* for 1850. Following the latter report are many blank pages which have been bound in with the several reports. Mr. Lowe's name is written on one of the title pages of the other reports mentioned, as is also the name "Mrs. Dr. Lowe." Upon the fly leaf of the report of the Code Commissioners also appears the name "Finley Burke", and upon the binding the name "Geo. H. Stillman." The binder's title is "Laws of Iowa 1850".

<sup>72</sup> *House Journal*, 1850-1851, p. 70.

A PORTION  
OF THE  
REPORT  
OF THE  
COMMISSIONERS APPOINTED TO DRAFT, REVISE AND ARRANGE  
A  
CODE OF LAWS  
FOR THE  
STATE OF IOWA.

Ordered to be printed by House of Reps.

IOWA CITY:  
PALMER & PAUL, STATE PRINTERS.

. . . . .  
. . . . .

1850.

CONSIDERATION OF THE REPORT OF THE COMMISSIONERS

With the printing question settled the consideration of the contents of the report of the Commissioners was begun in earnest. On December 14, 1850, Mr. Isaac M. Preston of the House Judiciary Committee offered a resolution prescribing the manner in which the report should be considered in the House.<sup>73</sup> Although this failed of passage, a resolution which provided that the new code be the special order at 2 o'clock, P. M. of every day until dispensed with appears to have been adopted.<sup>74</sup> Of the many amendments proposed in the House but few were finally enacted into law.

Some of the published accounts of the method of the legislature in acting upon the report of the Commissioners are very amusing. A correspondent to the *Muscatine Journal* thus describes the course pursued:

<sup>73</sup> *House Journal*, 1850-1851, p. 69.

<sup>74</sup> *House Journal*, 1850-1851, p. 91.

The process is some thing like this: A chapter is read by the Clerk of the House, to thirty-nine persons, whose qualifications to judge of its merits or demerits, are equal to those of any equal number of persons selected indifferently from the counties of the State. The law required them to approve each chapter before it becomes a law; they feel the importance of their position — and in order to show to their constituents that they know and understand what is going on, each one feels called upon to leave, if possible, his mark upon each chapter. After the Clerk has read the chapter, each solon begins to scratch his head, and wonder if some portion can't be altered without doing much damage. The reading of the chapter by sections is then called for; by the time the first section is read, about three of them are on their feet, having caught an idea — Mr. Speaker! Mr. Speaker!! Mr. Speaker!!! is heard from east, south and west: The Speaker recognizes the gentleman from "Buncombe" county, and the other two, in a discontented mood, take their seats more determined than ever, *the world shall have the benefit of the idea which is struggling within them for utterance.*

The gentleman from "Buncombe" approves of the general sense of the section, but some of the details are a little different from what "they used to was" in the State of Kentucky, on the north fork of "Big Sandy," *whar* he was born, and he therefore moves to strike out the word "quantity" and insert the words "powerful sight" — the gentleman on his left seconds the motion, and suggests that the words "or smart chance" be inserted after the words "powerful sight," which modification is accepted by the gentleman from "Buncombe," and the question on the amendment is put and carried, and so on through the chapter.

Thus it may be seen that whatever merits the code may have possessed in propriety and simplicity of diction, it may be stripped of all by amendments in non-essentials.<sup>75</sup>

Another issue of this paper contains a somewhat similar description, which reads:

A page will be read when a member will move that a certain passage be omitted. Another member will jump up and ask to retain the passage and insert certain specified words. By the time they finish a few pages they are so riddled that their authors would

<sup>75</sup> *Muscatine Journal*, Vol. II, No. 33, Saturday, January 11, 1851.

scarcely recognize their own. What was the utility of appointing Messrs. Woodward, Mason and Hempstead to compile a code of laws if our Legislators possess legal talent so much superior?<sup>76</sup>

By December 27, 1850, the House had made sufficient headway in its consideration of the report that a conference committee was appointed "to confer upon all disagreements in either house to the amendments made by the other to the report of the committee of revision". Mr. Lysander W. Babbitt, Theophilus Crawford, and John Thompson were appointed from the House,<sup>77</sup> and Warner Lewis, George Hepner, and George G. Wright from the Senate.<sup>78</sup> On January 18, 1851, the progress on the Code had reached the point where it became convenient to pass the following resolution:

Resolved, the Senate concurring herein, that each chapter of the revised code be amended by affixing a title thereto expressive of the subject matter therein contained and that each chapter be considered as a single bill or law and read a third time and passed upon as such and that for the purpose of preparing and arranging said amendments, a select committee of five be appointed on the part of the House, to act with a similar committee on the part of the Senate with instructions to arrange the title and style to said chapters or laws in accordance with the constitution of the state of Iowa.<sup>79</sup>

During the remainder of the session, the greater part of the time devoted by the House to the Code was in consideration of amendments made thereto by the Senate. It is of interest to know that although the House defeated the Senate bill requesting the services of the Commissioners in explanation of the Code, yet on January 2, 1851, it approved a resolution which granted Messrs. Charles Mason and W.

<sup>76</sup> *Muscatine Journal*, Vol. II, No. 32, Saturday, January 4, 1851. This article was a clipping from the *Davenport Gazette*.

<sup>77</sup> *House Journal*, 1850-1851, p. 114.

<sup>78</sup> *Senate Journal*, 1850-1851, p. 132.

<sup>79</sup> *House Journal*, 1850-1851, pp. 230, 231.

G. Woodward the privilege of attending on the Committee of the Whole and of making "explanations of their report".<sup>80</sup> At the same time it appears that a motion to allow the Commissioners \$2.00 per day for their services was laid upon the table.

The consideration of the report in the Senate likewise provoked much debate. Here the Judiciary Committee consisted of Messrs. P. M. Casady, George G. Wright, H. B. Hendershott, John P. Cook, and William E. Leffingwell, who were the leaders in the discussions.<sup>81</sup>

On December 9, 1850, a resolution was introduced into the Senate "relative to the appointment of a committee to examine and report to each branch of the General Assembly, the code of laws submitted by the revising commissioners."<sup>82</sup> This proposition met with defeat, for on the following day the joint committee reported certain parts of the proposed Code for printing.<sup>83</sup> Moreover, it appears the joint committee had examined the first three parts of the report and in recommending the printing of certain parts thereof declared they had "found the duties assigned them difficult, it requiring great care to properly discriminate between those parts which required printing, in order to an intelligent consideration thereof, and those which proposing no great change in provision from present laws, could well be considered without printing." They further reported that they had dispensed with the printing of at least half of the report as there was desire to adopt the code with very little change.

Shortly after receiving this report from the joint committee a resolution was introduced and passed calling upon

<sup>80</sup> *House Journal*, 1850-1851, p. 129.

<sup>81</sup> *Senate Journal*, 1850-1851, p. 25.

<sup>82</sup> *Senate Journal*, 1850-1851, p. 39.

<sup>83</sup> *Senate Journal*, 1850-1851, pp. 42, 43.

the Governor for information as to "whether the Board of Commissioners — have reported to him the completion of this work — and if they have not so reported, what information he has relative to the progress of said work."<sup>84</sup>

In response to this request Governor Hempstead replied that he had just received the remaining portions of the Code, with the exception of a few chapters. In connection with the report he also transmitted the letter of the Commissioners giving the reasons for withholding the remaining chapters.<sup>85</sup> The delay arose from the fact that it was not desirable to complete some sections until the greater part of the Code had been adopted.

On the same day that this report was received a motion was made "that the entire code be considered as read a first and second time, and that the Secretary of the Senate transmit the same to the House of Representatives."<sup>86</sup> After amendment the motion passed and a considerable portion of the original report of the Commissioners was thus acted upon by the Senate.

When the House resolution providing for the appointment of a joint committee to arrange the titles of the various chapters reached the Senate it met with defeat;<sup>87</sup> and as a result the titles in the *Code of 1851* are practically the same as those used in the original report of the Commissioners. There was a feeling that each chapter would require a separate heading, in order to conform to a provision in the Constitution which prohibited an act of the legislature from containing more than one subject.<sup>88</sup> The Judiciary Committee of the Senate in a very clear report succeeded in getting around the difficulty as follows:

<sup>84</sup> *Senate Journal*, 1850-1851, p. 46.

<sup>85</sup> *Senate Journal*, 1850-1851, pp. 51, 52.

<sup>86</sup> *Senate Journal*, 1850-1851, p. 50.

<sup>87</sup> *Senate Journal*, 1850-1851, p. 203.

<sup>88</sup> *Constitution of Iowa*, 1846, Art. III, Sec. 26, in the *Code of 1851*, p. 549.

It is wholly inexpedient to make the change contemplated by the message of the House of Representatives. It would be attended with much trouble, would consume time that is needed for other purposes and would greatly disfigure the appearance of the work. It is also unusual in modern revisions. Within the last twenty years, we know of no instance, in which a work intended as a complete and entire revision of the laws of any State in the Union, has been drawn up in such a manner.

But we are aware that the main argument in favor of the contemplated course, grows out of a supposed requirement of the constitution to that effect. The constitution requires that "every law shall embrace but one object, which shall be expressed in its title." We do not believe this requirement renders the proposed course necessary.

Without straining any rule of legal construction, we think the revised Code may be regarded as a law with but one object, the title of which would be fully expressed by declaring it to be, "an act for revising and consolidating the general statutes of the State of Iowa." In other words, it is an act for the government of the State. It is true, that it includes within itself many *subjects*, but they all tend to the accomplishment of that one *object*.

The intention of the constitution was doubtless to prevent several independent matters, having no natural connection with each other from being incorporated in one act. It was aimed particularly at acts of special legislation, and was intended to prohibit incongruous measures of that character, from being carried by force of combination, when singly and each standing upon its own merits alone, they would not meet with the approval of the legislature. But it certainly was never designed to prevent one entire law from being adopted as whole. The revised code is of this very character, very few if any of its chapters could be annihilated without essentially affecting the symmetry of the whole. It is like one of those pieces of machinery composed of many parts, but where the removal of any one would prevent the harmonious action of all. Must we create these independently and in detail? Must we adopt one absolutely without any reference to the kind and character of all the others? Your committee is clearly of the opinion that the constitution is not liable to the charge of intending so great an absurdity.

It is true that there are many provisions of the revised code, which if either of them had been made the subject of an independent enactment, could not under our constitution have been united with any of the others. But the case is changed when each is made a portion of one general law which properly embraces both. Thus, a law for punishing a person for peddling clocks without license, has no apparent connection with one exempting burying grounds from taxation, and an act which should embrace these two objects and nothing else, would be a violation of our constitution. But when both are made portions of a revenue law the objection vanishes. . . .

We believe this distinction to be clear and just, and that its observance will enable us to avoid inextricable difficulties. If a contrary view be adopted, the constitutional provision will not be complied with by prefixing the enacting clause to each chapter, but the chapters themselves must be dissected, re-written and enacting clauses prefixed to the different portions. The school law, revenue law, probate law, road law and justice's law in particular would be liable to this constitutional objection. Most of the other chapters of the code would, to a greater or less extent, be in a similar predicament, nay if the idea is to be carried out in all its strictness, many of the sections of the code must be split into fragments, as they are for convenience and brevity made to contain two or more independent ideas.<sup>89</sup>

At the close of the session a certain part of the report known as the "Appendix" caused both branches of the legislature considerable discussion. The House had ordered this part of the report printed, early in the session, along with the greater portion of the draft submitted by the Commissioners. This Appendix was printed between parts three and four and contained four very interesting provisions.<sup>90</sup> The Commissioners stated that the adoption of what was contained in the Appendix was considered by some of the committee as "of doubtful propriety" but as it contained matter of importance it was so placed that it

<sup>89</sup> *Senate Journal*, 1850-1851, pp. 219-221.

<sup>90</sup> *Report of the Code Commissioners*, 1850, pp. 320-326.

could be omitted or adopted without disturbing the remaining parts of the Code.

The first provision made in the Appendix was for "Courts of Conciliation", to be held by the County Judge and to try a certain class of tort cases submitted to him. The pleadings provided for in this court were very simple and it was made "the duty of the judge . . . so far as is compatible with his duty as judge to give to every person who may ask it advice respecting his differences with another."<sup>91</sup>

Another section of the Appendix was entitled "Offers Of Compromise", and provided that a defendant could make a tender of compromise to the plaintiff, who, if he accepted, would receive judgment either in term time or vacation.<sup>92</sup> The third provision was for the "Abolition Of Actions In Certain Cases", one of which was the abolition of the action for any sum less than fifty dollars in amount.<sup>93</sup> After the year 1865 all actions for debt were to be abolished, regardless of the amount. The last and perhaps the most unusual of any of the features of the Appendix was the provision for the abolition of capital punishment.<sup>94</sup>

By printing this Appendix and making amendments to the same, the House evidently considered it as a part of the Code. The Senate, however, appointed a committee to enquire whether it was intended that the Appendix should constitute a part of the Code.<sup>95</sup> The committee was not unanimous in its opinion and two very clear and able reports were made.

The majority of the committee were of the opinion that the Appendix was not "part and parcel of the revised code"

<sup>91</sup> *Report of the Code Commissioners*, 1850, p. 322.

<sup>92</sup> *Report of the Code Commissioners*, 1850, p. 323.

<sup>93</sup> *Report of the Code Commissioners*, 1850, p. 324.

<sup>94</sup> *Report of the Code Commissioners*, 1850, p. 326.

<sup>95</sup> *Senate Journal*, 1850-1851, p. 286.

as reported, because it had not been acted upon by the Commissioners according to the law which created the Code Commission, and also because the explanation made by the Commissioners for inserting the sections showed conclusively that they did not intend the Appendix as a part of the original report, but only as features which should be brought to the attention of the General Assembly. The majority were further of the opinion that the General Assembly had taken no action incorporating the Appendix as a part of the Code; and the mere fact of its being printed by the House did not amount to an act of incorporation. Accompanying this report was a resolution declaring that the Appendix constituted no portion of the Code as reported to the legislature.<sup>96</sup>

The minority of the committee also presented an able and convincing report in which they held that the Appendix should be considered as a part of the revised Code. Mr. George Hepner, whose name is signed to this report, declared that the Appendix in the original draft of the Code Commissioners had received the affirmative approval of the legislature, that it was now too late to change matters, and he proposed a resolution declaring this section to be a part of the Code.<sup>97</sup> The Appendix failed of passage and only one of the reforms which were embodied in it has ever been enacted into the law of Iowa.<sup>98</sup>

#### THE ADOPTION OF THE CODE OF 1851

On the day before the session closed a bill was received from the House authorizing the publishing of certain documents in connection with the Code which, after being read,

<sup>96</sup> *Senate Journal*, 1850-1851, pp. 296-298.

<sup>97</sup> *Senate Journal*, 1850-1851, pp. 310-313.

<sup>98</sup> This is the offer to compromise, and can be found in Section 3819 of the *Code of 1897*. See also *House Journal*, 1850-1851, p. 379.

was laid on the table.<sup>99</sup> In the forenoon of the last day of the session the Senate passed the revised Code by the decisive vote of fourteen to three<sup>100</sup> and the House took a similar stand the same evening, the vote in the House being twenty-three to thirteen in favor of the Code.<sup>101</sup>

The legislature held a brief evening session on February 5, 1851, and on the same day at about eight o'clock in the evening the Governor signed the bill which is known as the *Code of 1851*.<sup>102</sup> The Code is in the form of a single act, and although it was considered in chapters and sections by the legislature, it was passed as any other single bill. The title, preamble, and enacting clause of the act read as follows:

"AN ACT FOR REVISING AND CONSOLIDATING THE GENERAL STATUTES OF THE STATE OF IOWA. WHEREAS, it is expedient that the general statutes of this state be revised, consolidated, and properly arranged: Therefore,

"BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA, as follows:"<sup>103</sup>

In his farewell speech Mr. Enos Lowe, the President of the Senate, declared:

Our laws were deranged, dispersed, and technical — in a word so incomprehensible as sometimes to deceive even lawyers themselves, and were of course much less suited to the conventional wants of the people at large, in the every day affairs of life.

To remedy this great public evil, so universally and justly complained of, has been the chief aim and business of us all, and if we have succeeded in some degree, in better adapting the laws to the wants of the people, by rendering them less ambiguous, and as a consequence more respectable, an important work has been done.

<sup>99</sup> *Senate Journal*, 1850-1851, p. 304.

<sup>100</sup> *Senate Journal*, 1850-1851, p. 314.

<sup>101</sup> *House Journal*, 1850-1851, p. 380.

<sup>102</sup> *Code of 1851*, p. 469. See also the *Iowa Star* (Fort Des Moines), Vol. II, No. 15, Thursday, February 13, 1851.

<sup>103</sup> *Code of 1851*, p. 1.

The revisory labors of the session, though assisted by the able revising commissioners who prepared the code for our action, have been arduous and tedious, and I trust your honest and faithful efforts to serve the State may be correctly appreciated and justly rewarded by your fellow citizens.<sup>104</sup>

Jurists of the present day have praised the *Code of 1851* as the best compilation of its kind yet published by the State of Iowa, but sentiment in 1851 was strong in some quarters against its adoption. Many of the provisions were new and untried, and criticism was chiefly directed against these features. In other quarters the feeling toward the new Code was friendly and the people placed great confidence in the men who had prepared it for the legislature. Newspaper comment was liberal and was doubtless an index to popular feeling toward the Code.

Toward the close of the legislative session, the editor of the *Iowa Star* discussed the situation as follows:

The people have been waiting patiently for several years under the expectation that a good new code would soon be prepared for them, by which they would be relieved from the many obscurities, ambiguities, and conflicts met with in the laws which have been in force in this State for several years past. Should they now after having waited so long, be disappointed in this reasonable expectation, they would certainly not hold those guiltless by whom this disappointment should have been produced.

But we will not permit ourself to believe for a moment that the code in some form will not be passed, as it would be somewhat remarkable after the general assembly have spent 50 or 60 days in trying to perfect it that they would adjourn before having completed their work, and thereby render worthless the time already spent in legislating thereon. That some members will vote against its passage is probably true, but we cannot think the majority would pursue this course notwithstanding there might be some objectionable features contained therein. We hope to see it passed in some shape which will not be very objectionable to the people and

<sup>104</sup> *Senate Journal*, 1850-1851, p. 325.

as their experience points out defects, let succeeding general assemblies perfect by the necessary amendments.<sup>105</sup>

The *Burlington Tri-Weekly Telegraph* was, on the whole, favorable to the adoption of the Code with few amendments, although it severely criticised some members of the legislature for their attitude on various questions.<sup>106</sup> The *Dubuque Miners' Express* was very bitter toward the new Code, running weekly articles under the caption "The Revised Code — What it is, and What it Should be".<sup>107</sup> In these articles may be found a bitter attack upon the report and many arguments showing why the legislature should defeat its passage. In the third article there is presented a clear view of the editor's position in regard to the chief topic of that session of the legislature. The article reads:

We propose to continue our remarks upon the Code under the above title, and as we intend to enter into a somewhat minute analysis of it both as it is presented by the Commissioners for adoption and as it may be amended by the Legislature, we shall have an opportunity of presenting our views both upon the general

<sup>105</sup> *Iowa Star* (Fort Des Moines), Vol. II, No. 13, Thursday, January 30, 1851.

<sup>106</sup> See articles in *The Burlington Tri-Weekly Telegraph* under the following titles: *Iowa City Correspondence*, Vol. I, No. 86, Tuesday, December 24, 1850, Vol. I, No. 89, Tuesday, December 31, 1850; Vol. I, No. 94, Saturday, January 11, 1851, Vol. I, No. 95, Tuesday, January 14, 1851; *The New County Organization*, Vol. I, No. 87, Thursday, December 26, 1850; *To The Legislature*, Vol. I, No. 89, Tuesday, December 31, 1850; *The New Code — Let Well Enough Alone*, Vol. I, No. 84, Thursday, December 19, 1850; *The Revised Code*, Vol. I, No. 123, Thursday, March 20, 1851; *The New Code — Its Progress*, Vol. I, No. 91, Saturday, January 4, 1851.

<sup>107</sup> For articles on the *Code of 1851* in the *Miners' Express* (Dubuque), see the following issues: Vol. X, Nos. 15, 20, and 25, Wednesday, December 18, 1850, January 22, and February 26, 1851. See also the following articles: *Letters from the Capital, by the Editor*, Vol. X, No. 16, Wednesday, December 25, 1850; *What the Legislature should do*, Vol. X, No. 19, Wednesday, January 15, 1851; *The New Code*, Vol. X, No. 24, Wednesday, February 19, 1851; *The Revised Code — What it is, and What it Should be*. The latter title headed a weekly article during the session of the legislature. See also the *Miners' Daily Express* (Dubuque), Vol. I, No. 1, Tuesday, August 19, 1851.

principles of law and the proper application of those principles to the wants and circumstances of our own State and times.

During the session of the Legislature we shall confine ourselves to such portions of the Code as appear to us the most objectionable, and we do this not without some hope that the arguments which we shall advance in support of our objections, may have some influence.

We are aware that the public have been made to feel that implicit confidence should be placed in the integrity, ability and judgement of the Commissioners, and that nothing more was wanting on the part of the Legislature than to have gone through with the formal ceremonies of making laws of their report; but while we do not yield to any one in sincere confidence of their integrity, admiration for their ability, and respect for the judgment of the Commissioners, we are far from being convinced that the object which they were expected to accomplish has been attained.

And before we proceed further in this analysis, it may be well to ask ourselves what were the Commissioners engaged to, or expected to do? Was it merely to rearrange the already existing statutes, or was it to report a Code of laws which should be in themselves sufficient to regulate our intercourse with each other in all our relations of legal life without having recourse to any other law for our rule and government? If the former line of conduct was that which the Commissioners felt bound to have pursued, they have far transcended their powers, and if the latter, instead of relieving the judiciary and giving anything like certainty to the application of legal principles to civil practice, they have left to the courts a discretion which cannot but be repugnant to the principles and spirit of the age in which we dwell and to the people of the present time. The great fault of our political system hitherto has been in its want of fixed principles in the administration of justice. No man, no matter what may be the justice of his cause, goes into one of our courts with confidence. He approaches the tribunal of justice with doubt if not with dread. He is taught to believe, for our system teaches him, that the "law is uncertain," and as justice depends upon the law, the consequence is that Justice itself is not looked upon as a concomitant of right and truth, but as the reward of the successful wrestler in the legal temple.

In our opinion, the Commissioners should have draughted a code of law, which in the first place would be applicable to the general

idea of Democracy. We do not use this word in its partisan signification, but in that in which it embraces the general principles of both parties.

The people, in the artificial relations which they are necessarily obliged to hold to each other, require certain intermediate agents for the proper maintenance of these relations, but the creation of these agents should be the effect of the people's necessities for their use, instead of their being fashioned after the necessities or customs of other people or even after the habits of our own. Now if we should examine, by referring to our actual wants, what are the duties to be performed by their intermediate agents, we shall then be able to judge of the number and character of the Agents themselves, which should be created for the use of the people, 1st, in their relations with the State, 2d, in their relations with Counties, and 3dly, in their relations with towns and townships.

This examination we shall make at another time. We have merely hinted at it now in order to give some notion of what we meant to have understood by the term we have used above, in referring to what we have conceived to be the first duty of the Commissioners.

After having provided the necessary and requisite number of agents or officers, the Commissioners should next have prescribed their duties, leaving to their discretion as little as it were possible to leave untaught, and having done thus far, then, if not before would come the application of the relations of the citizen to each other. Here is the great task to be performed, and it is just here where the Commissioners have most signally failed in its performance. We will not prejudge them however, and as the greater portion of the code intimately connected with jurisprudence, is not yet published, we shall refrain from further comment upon that branch of the subject for the present.

In our future essays, we shall examine this code with reference to the positions herein assumed, promising as we have already done, that we confine our remarks to the more objectionable features of it till after the adjournment of the General Assembly.

To be governed by a foreign law, especially when that law is not preknown to the people whose conduct is to be regulated thereby, and according to the principles of which, justice is to be administered to them,— is something repugnant to the idea of Democratic Republican government, and subversive of the great principles on which such a government must necessarily be based.

In a Republic it is presumed that the will of the people to be governed, is the Supreme law for their government; but is this really the practice? Are we not governed by laws which we have not only not agreed to make, but which we do not even know the existence of before one of our judicial tribunals is called upon to apply them to some question at issue?

To obviate all this, the Legislature should pass an act to the effect that the people of Iowa should neither be governed by, nor made subject to any other laws than those enacted by the U. S. Congress and their own Legislature. This act may be in the following or similar language:

Be it enacted by the General Assembly of the State of Iowa, That Hereafter the people of this State shall be governed by no other laws than those enacted by the Congress of the United States and by the General Assembly of the State of Iowa.

SEC. 2. No law or legal principle which is not specially enacted by one of the authorities aforesaid shall have any force or effect whatever in this State, and the Judicial tribunals are hereby forbidden from applying, to any question at issue before them the laws of other states or nations, or the decisions of other courts of judicature.

SEC. 3. In cases where the questions at issue before the court cannot be decided by existing statutes, it is hereby made the duty of the presiding judge to certify the same to the Governor, giving the Executive such information relative to the case as will explain the defect or necessity; and the Governor shall by message inform the next General Assembly of the same.

SEC. 4. If the defect be such an one as requires a remedy, the General Assembly shall provide for the same by such statutory enactment as they think most applicable to the circumstances.

SEC. 5. This statute shall take effect and be in force from and after the 4th day of July, 1851, and it shall not be otherwise repealed than by a majority of the people of the State voting for the same.

A statute in some such terms and with such a design as this has in view, would be worth more to the people of this State than all the laws which have hitherto been adopted for their government. It would have the grand effect of sweeping away at one breath the undefined principles which are continually sought for and applied

to cases in law, and fixing in their stead a written law, which every one who chooses may read and learn. It would be a practical declaration of Independence from all foreign control, except so far as the people themselves would think proper to be controlled by adopting the laws of other states and nations. But this adoption would be by the people's Agents selected for that purpose, and not by the agents selected to apply these laws in administering justice.

In a word, we would, at once, be rid of *Judge Law* commonly called *common Law*, instead of which the Law of Common Sense, based upon common necessity, would become supreme.

We shall ask some one of our friends in the present Legislature to bring this subject before that body for immediate action, and if it should fail now, we shall continue to agitate for the next two years with a strong hope that then, if not now, this statute will be adopted.<sup>108</sup>

#### CHARACTER AND CONTENTS OF THE CODE

The first real Code of Iowa went into effect on July 1, 1851, and remained in force until replaced by the *Revision of 1860*.<sup>109</sup> Some writers seem inclined to consider the *Code of 1851* as a new book of law. It is true that it is impossible to find in it the statutes of the legislatures, as such, prior to the time of its adoption, for the Commissioners had fused all the statute law in Iowa into one new law which contained the major part of the previous existing statutes. By such a process the conflicting acts were reconciled, the scattering enactments were welded into one, and the superfluous provisions were weeded out. The result was a code whose provisions were simple and clear, a body of law condensed and reduced in bulk, a statute free from verbiage and useless parts.

It must be borne in mind, also, that many parts of the *Code of 1851* were entirely new in their provisions, and were not contained in the preëxisting statutes. Provisions which

<sup>108</sup> The *Miners' Express* (Dubuque), Vol. X, No. 18, Wednesday, January 8, 1851.

<sup>109</sup> *Code of 1851*, p. 472.

the commission considered useless, or which could be improved upon, were either dropped or gave place to new or amended acts. As a result the Code contained only a portion of the statute law which had been passed prior to 1851. Nor did the *Code of 1851* contain all the law at the time of its enactment. In speaking of this fact Mr. Justice McClain says:

In Iowa the movement for complete codification of the law never got beyond the code of procedure and the criminal code. No attempt was made either by Judge Mason or succeeding codifiers to embody any considerable part of the general principles of the law in statutory form. It is doubtful if such an attempt would have been wise. As a matter of fact the difficulties of applying the terms of a statute are found to be quite as great as those in applying the general rules of the unwritten law.<sup>110</sup>

During the period of the creation of the first code commission of Iowa, a commission on law reform was making reports to the legislature in New York. The code of civil procedure as adopted in New York was a great improvement over the old forms and was adopted to a greater or less degree in some of the other States.<sup>111</sup> Authorities are inclined to believe that the *Code of 1851* was not borrowed from New York, but that it was an independent and original work. Mr. Justice McClain declares:

It must not be assumed that the Code of 1851 was a copy of, or substantially derived from, any code found in any state. The general principles of law reform as they had been discussed in New York and elsewhere were recognized, but the result was the production of the Iowa author, and not a mere adaptation of the work of another.<sup>112</sup>

<sup>110</sup> McClain's *Charles Mason — Iowa's First Jurist* in the *Annals of Iowa*, 3rd Series, Vol. IV, p. 608.

<sup>111</sup> The Field codes were adopted in California in a body.—See *Annals of Iowa*, 3rd Series, Vol. IV, p. 608.

<sup>112</sup> McClain's *Charles Mason — Iowa's First Jurist* in the *Annals of Iowa*, 3rd Series, Vol. IV, p. 608; also *Report of the Code Commissioners*, 1859, p. 190.

In the *Report of the Code Commissioners* in 1859 it is stated that "the terms of the parent act [the New York Code] were so far departed from as to make it difficult even to those well versed in both acts, and almost impossible for others to apply the judicial illustration which the New York act has secured, to the illumination of our own."<sup>113</sup>

The *Code of 1851* stands preëminently for a clear presentation of the law. It attempted to give the law in such simple language and plain statement that those who were unskilled in legal terms would have an adequate conception of what was intended in the act. In the first title we have various terms and phrases defined under the heading "Construction of Statutes".<sup>114</sup> The section provides among other things that "words and phrases shall be construed according to the context, and the approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, shall be construed according to such peculiar and appropriate meaning." There are twenty-two constructions in this section and they have been adopted in every succeeding code of the State.

In size, the first Code of Iowa was a small book when compared with later works, containing only six hundred eighty-five pages of ordinary law book size. The paper used in this volume is of an unusually good quality and mechanically the book is of high order. It was bound in sheep and sold for two dollars and fifty cents a volume. The law provided that six thousand copies should be published, half of which were to be distributed to the organized counties, one thousand to be saved for future needs, and the balance, excluding those given to officials, were to be sold — the Secretary of State being allowed four hundred dollars for the

<sup>113</sup> *Report of the Code Commissioners*, 1859, p. 190.

<sup>114</sup> *Code of 1851*, pp. 6-8.

task of making the distribution.<sup>115</sup> The law authorizing the printing went into considerable detail in describing the manner in which the work should be done, among other things providing that it should be "printed on good book paper, the body of the work in small pica type set solid, with marginal notes and index in brevier type, with the subjects at the head of the pages and the part, title, or chapter at the head of the margin, and shall be published in one volume of royal octavo size, full bound in sheep and lettered 'Code of Iowa 1851'."<sup>116</sup> William G. Woodward, one of the Commissioners, was appointed to supervise the publication of the Code, and to prepare an index and marginal notes for the same. It is entirely probable that Judge Mason assisted in the work of editing the Code, as some writers have claimed.<sup>117</sup>

The general and local laws were published in a separate volume and formed no part of the Code, which was considered as distinct and separate from all other legislation of the session.<sup>118</sup> On the last day of the session a joint resolution was passed providing that "all laws now in force in relation to common schools, the university and school lands, be compiled and arranged under the direction of the Superintendent of Public Instruction, and as so compiled and arranged, that the same shall be printed and published in their appropriate places in the revised code."<sup>119</sup> Such laws form Title XIV of the *Code of 1851*, which is easily distinguished from the remaining portions of the book in that it consists mainly of a collection of the various statutes in force and is not fused into one general act.<sup>120</sup>

<sup>115</sup> *Code of 1851*, pp. 471-473.

<sup>116</sup> *Code of 1851*, p. 471.

<sup>117</sup> *Annals of Iowa*, 3rd Series, Vol. IV, pp. 606, 607.

<sup>118</sup> *Laws of Iowa*, 1850-1851, pp. 254, 255.

<sup>119</sup> *Laws of Iowa*, 1850-1851, p. 251.

<sup>120</sup> *Code of 1851*, pp. 159-186.

The title page of the *Code of 1851* reads as follows:

THE  
CODE OF IOWA,  
PASSED AT THE SESSION OF THE  
GENERAL ASSEMBLY OF 1850-1,  
AND APPROVED 5TH FEBRUARY, 1851.

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PUBLISHED BY VIRTUE OF AN ACT OF THE GENERAL ASSEMBLY,  
*Approved 5th February, 1851.*

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IOWA CITY:  
PALMER & PAUL, STATE PRINTERS.  
1851.

The contents are analysed into four main parts based upon the contents of the laws contained therein, the arrangement according to the alphabetical order of the headings being abandoned. The four parts are subdivided into twenty-five titles, which are also divided into two hundred and nine chapters of three thousand three hundred and sixty-seven sections. In addition to the Code proper, which covers only four hundred sixty-nine pages, there is an appendix containing various documents and a very complete index to the whole. However, the Code was not considered as one of the statutes of that year as it was provided in the Code itself that "this statute shall not be reckoned as one of the statutes of the present political year, but it may be designated as the 'Code' adding as may be necessary the title, chapter, or section."<sup>121</sup>

PART ONE OF THE CODE

Part I of the *Code of 1851* is devoted to State government, the officers, and "The General Assembly and the Statutes."<sup>122</sup> The duties of the various State officers are

<sup>121</sup> *Code of 1851*, p. 8.

<sup>122</sup> *Code of 1851*, p. 2.

defined, the various districts outlined, and necessary preliminary provisions are made. Following the provisions relative to State government are regulations for the government of counties and it is here that we find the greatest change. Administration was highly centralized and the office of County Judge was established.<sup>123</sup> This feature is undoubtedly the most famous of the new provisions in the *Code of 1851* and caused a great amount of discussion. The County Judge was "invested with the usual powers and jurisdiction of county commissioners and of a judge of probate".<sup>124</sup> In addition he was authorized to perform a great many duties, among which was the power to issue all warrants for money, "to institute and prosecute civil actions brought for the benefit of the county",<sup>125</sup> and to take charge of the fiscal concerns of the county. The provisions in the *Code of 1851* are practically the same as those submitted by the Commissioners, only one or two sections being stricken out. Such a departure from the existing forms of county government naturally had its friends and enemies and some very decided opinions were expressed. The *Miners' Express* was very bitter toward the new Code and the new plan of county government. After it became apparent that this part of the Code would pass and become law, it declared as follows:

It will take an extraordinary man to make it even tolerable, if an improper choice should be made of an incumbent, the office will be unendurable. Its mischief will become so manifest, that safety from its evils will be sought in other expedients which in their turn must also be abandoned, because of the rashness with which they shall have been embraced. We fear these evils, and we take this occasion to express our earnest convictions of what we believe must be the effects of the law. The people can do much to avert, if not totally

<sup>123</sup> *Code of 1851*, p. 21.

<sup>124</sup> *Code of 1851*, Sec. 105, p. 21.

<sup>125</sup> *Code of 1851*, Sec. 106, p. 22.

prevent these evils, they can also and may contribute to hasten them, and make them fall with more crushing weight upon the body politic. On their integrity, wisdom, patriotism, but more than all, upon their *selfishness* depends the issue.<sup>126</sup>

A writer to a Burlington newspaper declared that two-thirds of the people were denied their right of self government by the new system, that it made every county office a burden on the county treasury, and that the new system was based upon a false estimate of population instead of work. In speaking of the office of County Judge he concludes:

1. It gives to one county officer unheard of authority and power, not only over his brother officers, but over the people, and elects him for an unprecedented length of time.

2. It places all the other officers entirely under the control of this officer, and renders every body and every thing subservient to his beck and nod.<sup>127</sup>

Those who argued in favor of the new County Judge method of county government relied chiefly on the arguments of economy, the doing away with useless offices, and the simplifying of the methods of transacting county business.<sup>128</sup> One of the Burlington papers in particular thought it a good move to consolidate the Board of Commissioners with the office of Judge of Probate. Its correspondent at Iowa City wrote:

The greatest objection to the system here is that it confers a multiplicity of powers in the judge of the county court. But if it

<sup>126</sup> *Miners' Express* (Dubuque), Vol. X, No. 25, Wednesday, February 26, 1851.

<sup>127</sup> *The Burlington Tri-Weekly Telegraph*, Vol. I, No. 89, Tuesday, December 31, 1850. For an article describing the workings of the County Judge system in Iowa, see Crawford's *The County Judge System of Iowa with Special Reference to Its Workings in Pottawattamie County* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. VIII, pp. 478-521.

<sup>128</sup> *The Burlington Tri-Weekly Telegraph*, Vol. I, No. 86, Tuesday, December 24, 1850.

concentrates power in a single hand it in the same proportion fixes responsibility. You must elect a good man for your judge.

You then pay him a respectable salary and expect him to devote himself assiduously to the discharge of his duties — you give him power sufficient to enable him to perform his duties, and then you fix on him responsibility for all improper acts that may be done by him. I believe this is the only way to secure a cheap and efficient administration of the law, and the legislature will give it a trial.<sup>129</sup>

After the duties and functions of the County Judge have been prescribed, those of the remaining county offices are outlined; and following these, are the provisions relative to townships and their government.

The chapter on "Elections" is very complete and goes to considerable detail in specifying the methods of the choosing of officers. The chapter headed "Of the General Election" in the report of the Commissioners contained four sections providing for the posting of notices before each election which were stricken out and are not to be found in the *Code of 1851*. Another section in the chapter on "Elections" which was also eliminated reads as follows: "No election shall be held void because any of the notices herein required have not been given as directed, if the election takes place at the time appointed therefor by law, whether it be the regular election of the officers or an election to fill a vacancy."<sup>130</sup> Again we find two sections in the report of the Commissioners giving detailed instructions relative to *The County Canvass* missing in the code as adopted.<sup>131</sup>

Title V of Part I of the *Code of 1851* is devoted to "Certain Property of the State" and treats solely of the State Library. In the original report this title covered several

<sup>129</sup> *The Burlington Tri-Weekly Telegraph*, Vol. I, No. 86, Tuesday, December 24, 1850.

<sup>130</sup> *Report of the Code Commissioners*, 1850, p. 28.

<sup>131</sup> These sections in the original report are sections thirty-eight and thirty-nine and are to be found in the *Report of the Code Commissioners*, 1850, p. 34.

pages and included in addition, chapters on "The Lands of the State", "The Commissioner of Public Works of the State", and "Loaning Certain Funds" of the State, which are not to be found in the completed work.<sup>132</sup> In addition to the bills reported by the Commissioners on "The Lands of the State" and "Loaning Certain Funds", substitute bills were printed at the end of the report but these met much the same fate as the originals and were not adopted.<sup>133</sup>

The portion of the *Code of 1851* which deals with "Revenue" covers many pages and caused considerable comment at the time. It is of interest to know that monies and credits were included in the schedule of articles to be listed for taxation.<sup>134</sup> Another important chapter is the one immediately following, which is entitled "Of Roads and Highways." The chapter on the "Militia" is very brief and differs in this respect from the Territorial acts, no plan of organization or maintenance being prescribed.<sup>135</sup> The title "Of Towns and Villages" follows the chapters on the "Census" and the "Militia". Being sub-divisions of the State, one might expect to find this title under the chapters which treated "Of the Civil and Political Divisions of the State, and the Officers Thereof."

In the *Code of 1851* we find a general incorporation law, which was broader in its scope than the earlier act of 1847.<sup>136</sup> One of the very bitter fights came over the adoption of this law, as some of the legislators wished to make the property of individual stockholders liable for all the

<sup>132</sup> *Report of the Code Commissioners*, 1850, pp. 60-67.

<sup>133</sup> *Report of the Code Commissioners*, 1850, pp. 459-467.

<sup>134</sup> *Code of 1851*, Sec. 456, p. 76.

<sup>135</sup> *Code of 1851*, pp. 101, 102. At this period the militia seemed not to concern the legislature to any great extent. For the report of the House Committee on Military Affairs, which is a very humorous and highly interesting report, see *House Journal*, 1850-1851, pp. 335-337.

<sup>136</sup> See Horack's *Some Phases of Corporate Regulation in the State of Iowa* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. II, pp. 485-519.

debts of the corporation.<sup>137</sup> An interesting argument is brought to light in the minority report of the committee to whom was referred the chapter on "Corporations". In part the report reads:

In our opinion the said code ought to be so amended as to make the private property of the stock holders in all incorporations liable for the debts contracted by said incorporations. Some of our reasons we will briefly state, which are as follows, to wit: In the first place we believe, to exempt the private property of individual stockholders, is a direct violation of the fundamental principles and basis upon which the fair fabric of our free institutions is built, "of equal rights to all." In all other business transactions among men, whether in individual capacity, or in co-partnership transactions, individual or private property is made responsible for all debts contracted in such capacity. Then to exempt the private property of individuals in a corporate capacity from the debts contracted by said individuals in that capacity, is granting privileges to them, that are denied to others, and therefore is wrong in principle, and at war with democratic doctrine.

Secondly, we believe it will work a hardship upon the poor laboring class of community, who may have performed the labor and drudgery for said incorporations with the expectation of receiving a just compensation for their labor; but instead of realising their expectations they will often be reduced to penury and want by the explosions of such soulless bodies, while the rich capitalist will laugh them to scorn.

And in the third place, we believe it to be dangerous to the prosperity of our state, by setting on foot numerous speculative projects of internal improvements that are uncalled for and unprofitable to community at large, and consequently disastrous to those connected with them.<sup>138</sup>

The law, however, was adopted with the provision for limited liability and many portions of this chapter are still in force in Iowa.<sup>139</sup>

<sup>137</sup> *The Burlington Tri-Weekly Telegraph*, Vol. I, No. 91, Saturday, January 4, 1851.

<sup>138</sup> *House Journal*, 1850-1851, pp. 135, 136.

<sup>139</sup> *Code of 1851*, pp. 108-114.

The chapter on "Telegraphs" has been adopted to a considerable extent in the *Code of 1897*, with the addition of the words "and telephones" in order that the act may apply to modern conditions.

Title XII of Part I deals with the police of the State, includes provisions concerning the care, support, and relief of the poor, the care of illegitimate children, the insane, and contains regulations concerning lost goods and estrays, fences, trespassing animals, marks of animals, and the sale of intoxicating liquors.<sup>140</sup> The title which follows is one of the most important in the book and is devoted to "Regulations Pertaining to Trade." An interesting section reads:

The use of private seals in written contracts (except the seals of corporations) is hereby abolished, and the addition of a private seal to an instrument of writing hereafter made shall not affect its character in any respect.<sup>141</sup>

Under the title "Of Education" may be found a provision for the establishment at Iowa City of an institution to be called "The State University of Iowa", with branches in various cities. The Medical Department was established at Keokuk and branches were also located at Fairfield and Dubuque.<sup>142</sup> Section one of the chapter on the University in the original report was not adopted in the Code, a new chapter being substituted in its place. The original section reads:

The University established by an act of February 25th 1847 is hereby recognized and confirmed as herein provided, but the name thereof shall hereafter be the "University of Iowa."<sup>143</sup>

As already noted, the school laws were not prepared by the Code Commissioners, but were simply a collection of the

<sup>140</sup> *Code of 1851*, pp. 124-146.

<sup>141</sup> *Code of 1851*, Sec. 974, p. 153.

<sup>142</sup> *Code of 1851*, pp. 159-164.

<sup>143</sup> *Report of the Code Commissioners, 1850*, p. 482.

statutes then in force.<sup>144</sup> Governor Ansel Briggs in his message of December 3, 1850, had informed the legislature that "It is expected that the Commissioners appointed to revise the code, will examine the School Law, and either present a new one, or prune away the excrescences, and supply the wants of the one now on the statute book."<sup>145</sup> The Code Commissioners deemed it wise to secure the assistance of the State school authorities on this important subject, and a joint resolution, passed on February 5, 1851, provided that the Superintendent of Public Instruction should direct the compiling and arranging of these acts.<sup>146</sup> They are not fused into one general provision and consequently lack the unity that is characteristic of the remainder of the Code. The statutes relating to common schools had been published in separate form in 1849 and had followed the form adopted in *The Blue Book*.<sup>147</sup> Many of the school acts embodied in the Code were re-arranged from the statutes contained in *The Blue Book* and were not fully re-written as was the remainder of the Code. Some of the provisions in this section are of considerable historic interest at this time, one of the provisions reading that "All real and personal property of blacks and mulattos in this state shall be exempt from taxation for school purposes."<sup>148</sup>

Another interesting division of Part I is chapter seventy-two, which provided for the establishment of three Normal schools "for the education of common school teachers and others."<sup>149</sup> These institutions were to be located at An-

<sup>144</sup> The school laws had been collected in 1849 and published by the Superintendent of Public Instruction.— See *Statutes of the State of Iowa Relating to Common Schools*, 1849.

<sup>145</sup> *House Journal*, 1850-1851, p. 13.

<sup>146</sup> *Laws of Iowa*, 1850-1851, Joint Resolution No. 27, p. 251.

<sup>147</sup> See above note 144.

<sup>148</sup> *Code of 1851*, Sec. 1160, p. 182.

<sup>149</sup> *Code of 1851*, pp. 184, 185.

drew, Oskaloosa, and Mount Pleasant, and were to receive five hundred dollars annually from the State.

#### PART TWO OF THE CODE

Part II of the *Code of 1851* contains substantive law and deals with the rights of persons. Many of the narrow and rigid rules of the common law are dropped and in their place a number of the liberal laws in force to-day are substituted. Section 1200 provides that "the term 'heirs' or other technical words of inheritance are not necessary to create and convey an estate in fee simple";<sup>150</sup> while in section 1207 there is a provision that "a married woman may convey her interest in real estate in the same manner as other persons."<sup>151</sup>

The famous homestead law is also to be found in part second, as well as the chapters on "Landlord and Tenant" and "The Estates of Decedents".<sup>152</sup> The title on "Domestic Relations" is a very important one, and varies considerably from the original report of the Commissioners. As adopted the law gives the married woman broader rights in regard to her property than under the old common law.

Marriage is defined as "a civil contract requiring the consent of parties capable of entering into other contracts",<sup>153</sup> which is still the law, as announced in the *Code of 1897*. The divorce laws, on the other hand, were much more lax than those of to-day. One of the causes for which a divorce might be granted was as follows:

When it shall be made fully apparent that the parties cannot live in peace and happiness together and that their welfare requires a separation.<sup>154</sup>

<sup>150</sup> *Code of 1851*, p. 191.

<sup>151</sup> *Code of 1851*, p. 191.

<sup>152</sup> *Code of 1851*, pp. 197-218.

<sup>153</sup> *Code of 1851*, Sec. 1463, p. 221, and *Code of 1897*, Sec. 3139.

<sup>154</sup> *Code of 1851*, Sec. 1482, p. 223.

Two sections of the original report, however, which were not incorporated into the Code proper, read:

6. When the parties voluntarily appear in court and agree to a divorce having made a suitable disposition of their minor children and their property if they have any, the court shall decree accordingly but the petition must be filed ninety days previous to the term at which the decree of divorce is rendered.

7. If it appear that both parties are equally in fault no divorce can be decreed except by mutual consent.<sup>155</sup>

In commenting upon this weak divorce law the editor of the *Miners' Express* declared:

Our veins freeze at the cold blooded philosophy manifested in the provisions of the new Code in this matter. If marriage be nothing more than a "civil contract," the least we can do, is to give each party a fair hearing in the matter; not assume to cancel a contract, even of so little importance as marriage seems to be in the eyes of the Commissioners on an ex parte hearing. Do not men become bound to the State, when they enter into this "civil contract" for the support and education of their children? Is the State doing justice to these worse than orphan children, when they so easily absolve the parents from the obligations which they are supposed to assume, when they enter into this "civil contract"? Do the Commissioners suppose that society is so pure, that were polygamy permitted by the law, none would practice it? If not, can they suppose that none will avail themselves of the unbridled license permitted by this "civil contract" of the new code?<sup>156</sup>

It is worthy of note that the objectionable feature quoted above was repealed by an act of the legislature in 1855.<sup>157</sup>

#### PART THREE OF THE CODE

The third part of the *Code of 1851* consists principally of adjective law and is entitled "Of Courts and the Procedure Therein." This division forms the "Code of Civil Pro-

<sup>155</sup> *Report of the Code Commissioners*, 1850, p. 199.

<sup>156</sup> *Miners' Express* (Dubuque), Vol. X, No. 24, Wednesday, February 19, 1851.

<sup>157</sup> *Laws of Iowa*, 1855, pp. 112, 113.

cedure" and in it may be discovered many departures from the common law forms. "The forms of Procedure", one writer declares, "had been brought from the older Eastern States and were a mixture of Southern and Northern court practices, altogether a system that was cumbersome and expensive. Moved, doubtless, both by the latter considerations and by the agitation for codification, led, at that time, by David Dudley Field of New York, Iowa was almost the pioneer in codification."<sup>158</sup>

The great reform made in procedure was in bringing simplicity to the pleadings; and as a result they are very similar to the pleadings to-day, requiring a petition; a demurrer, motion, or answer; and the subsequent pleadings that are now in use. District courts were given original jurisdiction both in equity and law,<sup>159</sup> and this provision along with the change in forms seems to have caused confusion in the minds of the jurists of the day, for in commenting upon the act concerning civil procedure in 1859, the Committee to Revise the Code makes the following observations:

We have said this system was introduced into Iowa in 1851. It forms the main features of the "Part Third," of our Code of that year. There were some misfortunes attendant upon its introduction here. 1st. There was no attendant report to tell us of its origin — to point out its aims, or to guide to sources of illustration. It hence followed that many, of both the bar and bench, not acquainted with the latest legal thought, deemed the Code a startling innovation, and without example as a departure from precedent. 2d. That while borrowed almost entirely from New York, except some parts which we think clearly improvements, even on the New York system, yet the terms of the parent act were so far departed from as to make it difficult even to those well versed in both acts, and almost impossible for others to apply the judicial illustration which the New York act has secured, to the illumination of our own. Besides,

<sup>158</sup> *Annals of Iowa*, 3rd Series, Vol. VII, p. 625.

<sup>159</sup> *Code of 1851*, Sec. 1576, p. 234.

this act had not then attained its present extended popularity, nor won its way to the general acceptance of so many States and Territories.

Then, too, in the older cities of the State, among the old men, the oldest and best lawyers, who were worked gray in the profession, there was a strong cleaving to the friendly old forms in the use of which they did, or were supposed to excel. It was hard for such men to forego a superiority, well and laboriously earned, and to be compelled to begin again by the side of the youth just emerging into the legal arena, with whose sweat, and blood, and scars, these veterans were so gallantly mantled. For these men had not learned then, what they have since — that the new system was the old system shorn only of its nonsense, and that no lesson learned in the logic or philosophy of the old, but applied as well to the new.

Then, too, were the mechanical men, who never went below the surface to find the reason of a thing, who lived and breathed, in lifeless forms. There was also the fearfully conservative man, who thought that his long buried ancestors knew much better, not knowing his surroundings, what was best for him amid such surroundings, than he possibly could — and among them all, and rather for the reasons we have given, it turned out that the Code was not welcomed as warmly as it had the right to be.

Thus it was that ill-digested — hasty — unelaborated, *obiter dicta*, made with a poverty of inquiry deeply to be deplored amid the majesty of such an occasion, were announced, bearing upon its applicability to chancery, and as to what was in the total absence of all clear thinking, called its blending of law and equity. In *Claussen vs. Lafranze*, 4 Green, 224, it was said that chancery was not included in the reform of the Code, and that we must go to England and English books and others, to learn what our law of pleading on that subject was.<sup>100</sup>

One writer even declared that “the Code of 1851 is ‘justly famous’”, and further “its chief title to fame lies in the fact that it marked the abandonment of the common law.”<sup>101</sup> In commenting upon this statement the writer of an editorial in the *Annals of Iowa* remarks:

<sup>100</sup> *Report of the Code Commissioners*, 1859, pp. 190, 191.

<sup>101</sup> *Annals of Iowa*, 3rd Series, Vol. VII, p. 626.

We doubt if this assertion is warranted. The Commission compiled, restated and enacted in fine form the administrative law of the State and local governments, and it codified the forms and methods of procedure in civil and criminal actions. But their Code did not mark the abandonment of the common law in Iowa. What it did mark was the discontinuance of the common law procedure in civil actions. The common law prevails in Iowa today in so far as its rules or principles are not inconsistent with or have not been superseded by statutory provisions.<sup>162</sup>

It is easy, however, to note the departure from common law rules. Section 1733 declares that "all technical forms of actions and of pleadings are hereby abolished." By the *Code of 1851* a woman is permitted to sue for her own seduction, a privilege which was not allowed under common law practice.<sup>163</sup> Again, section 2502 rules that "unless from the necessity of the case, no cause of action ex delicto dies with either or both the parties, but the prosecution thereof may be commenced or continued by or against their respective representatives."

In Section 1614 the duties of an attorney are laid down — a code of ethics, which is still the law and has been adopted practically verbatim in the *Code of 1897*.<sup>164</sup>

One of the interesting sections of the chapter on "Evidence" states that "an indian, a negro, a mulatto or black person shall not be allowed to give testimony in any cause wherein a white person is a party."<sup>165</sup> The Statute of Frauds is to be found in section 2410 and certain exceptions thereto are enumerated in the section following.

One of the sections in the chapter on "Evidence" reported by the Commissioners, but which was omitted in the *Code of 1851* provided that "on the trial of any criminal prosecu-

<sup>162</sup> *Annals of Iowa*, 3rd Series, Vol. VII, p. 626.

<sup>163</sup> *Code of 1851*, Sec. 1696, p. 249.

<sup>164</sup> *Code of 1851*, Sec. 1614, p. 239.

<sup>165</sup> *Code of 1851*, Sec. 2388, p. 322.

tion the prosecuting attorney may require any witness to disclose facts which would tend to subject him to punishment for offences technically termed *mata prohibita* but in such cases the fact shall in case the witness desires it be entered of record and shall be a final bar to any prosecution against the witness for the offence disclosed in whole or in part by him on such examination."<sup>166</sup>

The last two chapters of this portion of the Code are devoted to forms and to a list of the fees which might be collected by the various officers. The listing of these fees requires forty-two sections.<sup>167</sup>

In the original report we find an "Appendix" at the end of Part Three which has already been described. After causing much confusion in the legislature it was omitted in the *Code of 1851*.

#### PART FOUR OF THE CODE

The last main division of this Code contains the law relating to "Crimes and Punishments and Proceedings in Criminal Cases", and is popularly called "The Criminal Code".

For the first time in a compilation of Iowa law treason is defined and the punishment prescribed.<sup>168</sup> The following section on duelling still remains and is to be found with the omission of one phrase in the *Code of 1897*:

Whoever fights a duel with deadly weapons and inflicts a mortal wound on his antagonist, whereof death ensues, is guilty of murder of the first degree and shall be punished accordingly.<sup>169</sup>

Chapter two hundred eight concerns "Vagrants", and those who were to be considered as such are enumerated.

<sup>166</sup> *Report of the Code Commissioners, 1850*, p. 303.

<sup>167</sup> *Code of 1851*, pp. 338-348.

<sup>168</sup> Treason had been previously defined in Sec. 16 of the *Constitution of 1846*.— See *Laws of Iowa, 1846-1847*, p. 3.

<sup>169</sup> *Code of 1851*, Sec. 2572, p. 350.

The *Code of 1851*, being a single act of the legislature, is signed by George Temple, Speaker of the House of Representatives, and Enos Lowe, President of the Senate; and is approved by Stephen Hempstead, at this time Governor, but who had also served as one of the Code Commissioners.<sup>170</sup>

Between the Code proper and the Appendix are the acts relative to the creation of the Commission to prepare the Code, and to printing the same. In the latter law William G. Woodward was authorized "to superintend the order of publication of the code, to prepare brief marginal notes and a full and complete index, to arrange and properly number in a convenient and suitable manner the several divisions and sub-divisions from the beginning throughout, to examine and correct the proof sheets, and cause all clerical, typographical, and grammatical errors, and errors of punctuation to be corrected."<sup>171</sup> For this service he was to receive the sum of four hundred dollars. In the Appendix are thirteen important documents and papers. The index is very complete and lists the laws both by page and section.

#### NEWSPAPER COMMENT

With the close of the session of the legislature newspaper discussion concerning the Code gradually diminished. Some of the later comments, however, indicate clearly the attitude of the various editors. In summing up the work of the session the editor of the *Muscatine Journal* remarked:

The session has been an important one in many respects. There were many things to be done which required much consideration. Whether they received it or not, time will develop. The adoption of an entirely new code of laws, by which the modes of procedure in our courts will be materially altered — the creation of new offices and the abolition of old ones — the concentration of powers

<sup>170</sup> *Code of 1851*, p. 469.

<sup>171</sup> *Code of 1851*, p. 471.

and duties, which have heretofore been exercised and performed by many, in one individual — are a few among the numerous changes which have been made by the General Assembly. We understand the lionhearted Democracy was in a great “stew” about the time of adjournment. One of the prominent members was seen one morning, before breakfast, walking backward and forward between the capitol and his boarding house, in great agitation. Some one, anxious to ascertain what was the cause of his disturbance, approached him quietly and endeavored to draw from him the great and weighty matters which were preying upon his mind.

“Why, sir”, said he, “if we adopt the Code it will ruin *the party*, and if we reject it the party is ruined — and we are ruined anyhow.”

He was in what would be termed in common parlance a “tight place.” There was *Ruin* before him, whichever way he turned. His patriotism, however, went no further than “the party”— his pious soul was not troubled by the effect the adoption or rejection of the code would have upon the country. It made no difference to him, we suppose, what became of the country, so “the party” prospered. He was compelled in the end to take one horn or the other of the dilemma in which he found himself placed. The Democracy have been under great concern of mind for some time past, and we opine there is an unwritten history connected with some of the transactions at Iowa City this winter, which would afford much instruction to the rising generation. We hope some one has “taken notes,” from which that history may be written out.<sup>172</sup>

The *Iowa Star*, published at Fort Des Moines, was apparently favorable to the Code. On August 21, 1851, the following article appeared in its columns:

The code, if it is a code, (which is doubted in some quarters) will continue to be a code notwithstanding all that is said against it. And further, if it is a code, that is, in force, it will probably have out-lived most of the prejudice gotten up against it before the next session of the General Assembly. Many persons condemn, because many of its provisions are new, and they don't understand them.

<sup>172</sup> *Muscatine Journal*, Vol. II, No. 37, Saturday, February 8, 1851. Other articles concerning the *Code of 1851* can be found in the *Muscatine Journal*, Vol. II, Nos. 31, 32, and 33, Saturday, December 28, 1850, and January 4 and 11, 1851.

A more thorough acquaintance will no doubt make a more favorable impression. The code has many good qualities to recommend it, though it undoubtedly has some imperfections. These as fast as discovered by experience should be remedied, and thus the code may be made acceptable to the people as a whole, and also in detail. Let experience then note all the discovered imperfections, that they may be reported to the next General Assembly and submitted to the remedial action of that body. We believe it to be the part of wisdom to seek to improve and perfect, but not to destroy the code. There are some men so prone to fault-finding that if they could discover a small speck upon the sun as large as a gnat's eye, would no doubt condemn that great luminary, and be in favor of having it kicked out of the planetary system — their eyes will dwell upon the speck, while the great beauties and perfections which surround it, hardly attract their passing glance. If we are to have no code until such men are suited, we are at the end of the law.<sup>173</sup>

Another article in the columns of the same paper declares that some papers were advocating a session of the legislature to revise or repeal the Code. The writer of the article urged that the Code be given a fair trial of two years, by which time the people would be familiar with its provisions and could intelligently amend them.<sup>174</sup>

Several months after the appearance of the Code the following humorous article appeared in the *Iowa Star*:

The code seems to "bear acquaintance very well," its popularity is evidently on the increase in this part of the State as the people the better understand its provisions. But still we occasionally hear of some fault-finder who gives it particular "goss" generally, without knowing exactly to what part he objected, or whether it was to the code or something bound up with it. In one of the neighboring

<sup>173</sup> *Iowa Star* (Fort Des Moines), Vol. II, No. 40, Thursday, August 21, 1851. Comments on the Code by this paper are also to be found in the following issues: Vol. II, No. 4, Thursday, November 28, 1850; Vol. II, No. 8, December 26, 1850; Vol. II, No. 9, January 2, 1851; Vol. II, No. 13, January 30, 1851; Vol. II, No. 15, February 13, 1851; Vol. II, No. 43, September 11, 1851; Vol. II, No. 47, October 9, 1851.

<sup>174</sup> *Iowa Star* (Fort Des Moines), Vol. II, No. 43, Thursday, September 11, 1851.

towns a few days since a man stepped into the clerk's office, picked up the code, read a sentence or two in it, and then commenced abusing it most lustily—he was requested to point out the objectionable part, when with much gusto he read a sentence or two, which turned out to be a part of the *Constitution of the United States*.<sup>175</sup>

One newspaper, however, which could see very little of good in the Code, printed an article by a correspondent who signed himself "Plow-Share", which reflects the unfriendly attitude of those opposed to the Code. He says:

MR. EDITOR:—As one of the "*body politic*", I choose to exercise an inherent right in discussing the merits and demerits of the Laws under which we live, or of those under which it is proposed we shall live in future. Our old Code, it is well known, was made up of the "tail ends" of everything which has been enacted as statute law since the first organization of the North-Western Territory. When the provisions of this Code has failed, our court have resorted to what is sometimes denominated Judge Law—i. e. the court, according to its capacity, either makes a new decision, or draws from the musty stores of American or English common law—usually rejecting common sense in its veneration of "precedent." The people have ever been restive under this system; but have always been outwitted in their endeavors to reform it by those whose interest it is to perpetuate it.—To remedy it in some measure, the evil growing out of this state of things, with the avowed purpose of making plainer and more comprehensible our every-day laws—such, for instance, as Co. Organization; Road System; Taxes; Schools, &c., as well as to set bounds to the unlimited power of the courts by salutary statutory provisions, a Commission was appointed by the Legislature in 1847, to form a Code. After 3 or 4 years' time, (though I don't believe they spent as many months' labor upon it,) we have been presented by this trio of Lawyers, (and our Legislature was expected by them to adopt it without discussion) a Code of Laws, which, so far as I have been able to examine it, enhances, rather than diminishes, the evils above alluded to. Concentration of power in individual officers was one of the evils of our old system, and which under the cry of *economy*, has obtained

<sup>175</sup> *Iowa Star* (Fort Des Moines), Vol. II, No. 47, Thursday, October 9, 1851.

to such a degree in our county organization, that *chaos* better than any other term, represents the state of county affairs in most counties — especially of Dubuque.

How would *common sense* remedy the evils of such a system? Why, by properly dividing the duties of county officers to different individuals — fixing their compensation, and defining their duties. What does the new Code do? It gives about all the powers requisite for county organization to *one man* — such as County Commissioner, Judge of Probate, Auditor of accounts, *Bridge Builder*, Overseer of the Poor, Assessor, &c. Here is *Democracy* with a *vengeance*. Not a word is said to define his powers as County Commissioner; old laws repealed, he must look for precedent in this capacity to the practice of other States, so that in this regard we are to live entirely under the laws of others, or such Judge Law, as the new County Judge may see fit to dole out to us. He is to act as Judge of *Probate*, and the Code leaves him and us almost entirely at the mercy of the relict of the feudal ages, "*Common Law*" again. Our Road System was bad under the old laws. Our new Code says nothing about any other than county and State roads, and provides no method of laying out town and private roads, often of more importance than the others. It is a common-sense principle, that if a man is taxed for the support of any public convenience, he should not be denied a participation in the benefits of it. Now, every [one] who has lived in a thriving agricultural country knows that short roads, (call them by what name you will,) connecting with the main thoroughfares, are needed, and are indispensable;— for these roads the New Code does not provide, unless all roads of what ever kind are to be considered county roads: To do so Judge Law must be called in, for the new Code is silent. An Officer, (salary not named) is provided to keep these roads in repair, and with authority to purchase (if I mistake not) teams and tools at the expense of the county: he must work the roads by calling out the people; if they don't come, get the money, if he can. All I have to say of this system, is, that its expense and impracticability, out of the large towns, is apparent at first sight.

Our Judicial System and Court practice needed thorough reorganization, so that the people could obtain justice through that medium, if they chose, without the certainty of spending more than justice was worth: I have not seen that part of the new Code re-

ferring to this subject, but understand that it proposes to abolish all laws for the collection of debts, for the reason that it costs more to collect debts under the present system than they use [are] worth. A *wise reason*, truly — if it did originate with the Commissioners. Are not people in a free government entitled to something better than this? Are the people of Iowa prepared to take this long step toward agrarianism? Our marriage laws, or rather, laws of Divorce, were rascally enough; and under them villiany was daily growing. But the new Code goes beyond anything heretofore invented in this line.<sup>176</sup>

#### PROPOSAL OF AMENDMENTS

After two years of trial the new Code was thus brought to the attention of the legislature in the message of Governor Hempstead:

Among the many important questions which will come before you for deliberation, will be the amendment of the laws now in force in this State, and to which I would especially call your attention. . . .

Like everything else of human origin, it has omissions and imperfections, and it is your province to make such amendments as are necessary, and which in your judgment will advance the public good. I need not remind you that in making such amendments, much care and deliberation should be used in order to prevent conflicts and uncertainties; or that much mischief has arisen from the instability and inconsistency of legislation. . . .

For the purpose of directing your attention to such parts of the code of laws as may be defective in any particular, it is made the duty of each of the Judges of the Supreme and District Courts to report to the General Assembly, at each regular session thereof, all omissions, discrepancies or other evident imperfections of the law, which have fallen under his observation, and I would recommend such reports to your careful consideration.<sup>177</sup>

Governor Hempstead then proceeded to urge the adoption of legislation to control the liquor traffic. Hon. A. A. Bradford, a judge in the sixth judicial district also reported

<sup>176</sup> *Miners' Express* (Dubuque), Vol. X, No. 24, Wednesday, February 19, 1851.

<sup>177</sup> *House Journal*, 1852-1853, pp. 15, 16.

to the legislature on "omissions in the code of Iowa".<sup>178</sup> In the session of 1852-1853 many amendments to the *Code of 1851* were offered,<sup>179</sup> and accordingly, on December 13, 1852, a resolution was introduced in the Senate providing for a committee of six members, to be appointed from both houses, to whom should be referred "all appropriate matters connected with the amendment of the code".<sup>180</sup> The object of one of these amendments was to create two associate judges to assist the County Judge in the government of counties.<sup>181</sup> This proposition was received unfavorably in a report made by the Judiciary Committee of the Senate, as were various other amendments calling for a change in county government.<sup>182</sup>

The Ways and Means Committee of the Senate were instructed by resolution on January 3, 1853, "to inquire into the expediency and propriety of reducing the price of the code of laws of Iowa, from two dollars and fifty cents to one dollar".<sup>183</sup> No law, however, seems to have been passed reducing the price, though an act was passed, distributing the Code to a large number of county and township officers.<sup>184</sup>

In the session of 1854, two years later, a resolution was introduced in the House creating a special committee to whom were to be "referred all Bills amendatory of the Code."<sup>185</sup> This resolution failed of passage, but later in the session another resolution was successful and a com-

<sup>178</sup> *Senate Journal*, 1852-1853, p. 82.

<sup>179</sup> As an example see the session of Saturday morning, December 18, 1852, in the *Senate Journal*, 1852-1853, p. 67.

<sup>180</sup> *Senate Journal*, 1852-1853, p. 46.

<sup>181</sup> For report on this resolution see the *Senate Journal*, 1852-1853, pp. 61, 62.

<sup>182</sup> *Senate Journal*, 1852-1853, p. 62.

<sup>183</sup> *Senate Journal*, 1852-1853, p. 120.

<sup>184</sup> *Laws of Iowa*, 1852-1853, p. 131.

<sup>185</sup> *House Journal*, 1854-1855, p. 86.

mittee of five, consisting of Samuel Boyles, Joshua Tracy, Jairus E. Neal, Micajah Williams, and Ben. M. Samuels was appointed.<sup>186</sup> Afterward the Speaker of the House was added to the committee.<sup>187</sup>

#### ADOPTION OF THE CODE IN NEBRASKA

Certain parts of the *Code of 1851* were destined to become the law of a much larger area than was at first supposed. In the early fifties large numbers of Iowa men became interested in Nebraska and when the Territory was formed Iowa men played a leading rôle in the government so instituted.<sup>188</sup> By an act approved March 16, 1855, the Territorial legislature of Nebraska adopted the greater portion of the third part of the Iowa Code, taking forty-seven of its chapters and declaring that they were "adopted and declared to be in force as law in the Territory of Nebraska, so far as the same are applicable, and not inconsistent, with any laws passed at the present session, or with the Organic Law of said Territory".<sup>189</sup>

Likewise, Iowa's criminal code was adopted in its entirety and became part three of the *Laws of Nebraska* for 1855.<sup>190</sup> These laws remained in force in the Territory of

<sup>186</sup> *House Journal*, 1854-1855, p. 180.

<sup>187</sup> *House Journal*, 1854-1855, p. 193.

<sup>188</sup> See Deemer's *The Part of Iowa Men in the Organisation of Nebraska* in the *Annals of Iowa*, 3rd Series, Vol. IX, No. 3, pp. 161-185.

<sup>189</sup> *Laws of the Territory of Nebraska*, 1855, pp. 55, 56.

<sup>190</sup> *Laws of the Territory of Nebraska*, 1855, p. 212. The act reads as follows:

"Section 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That the Fourth Part of the Code of Iowa, beginning on page three hundred and forty-nine, as published in the authorized edition of said Code, so far as applicable, and not inconsistent with the laws of this Territory, be and the same is hereby declared to be in full force and effect in this Territory.

"Section 2. That it shall be the duty of the persons who superintend the publication and indexing of the laws of this Territory, passed at this session

Nebraska until 1857, when they were repealed by an act which was passed over the Governor's veto.<sup>191</sup> Mr. Justice Deemer in his article on *The Part of Iowa Men in the Organization of Nebraska* suggests that this repeal may have been voted for the purpose of freeing a man who would have been forced to serve a prison sentence had the laws remained in force.<sup>192</sup>

#### MOVEMENT TOWARD REVISION

Because of being so widely used the original edition of the *Code of 1851* was soon exhausted, and in his last message to the legislature Governor Grimes declared, "I would call your attention to the fact that the edition of the 'Code of Iowa' is exhausted, and that there are no copies of some of the session laws."<sup>193</sup> On the following day Governor Lowe stated that "the unexampled increase of our population" had exhausted the supply and he urged that "this evil should be remedied at as early a period as practicable."<sup>194</sup>

to number the sections in the said Criminal Code, consecutively through the same, beginning at number one, and change whenever it occurs in the said code, the State of Iowa, to the Territory of Nebraska.

"Section 3. This act to take effect and be in force from and after its passage.

Approved March 15, 1855."

See also the *Laws of the Territory of Nebraska*, 1855, p. 225.

<sup>191</sup> The act repealing the *Code of 1851* as adopted in Nebraska reads as follows:

"Section 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That an act entitled 'An act adopting certain parts of the Code of Iowa,' approved March 16, 1855, and also an act entitled 'An act relative to criminal laws, approved March 15, 1855,' be and the same are hereby repealed."—*Laws of the Territory of Nebraska*, 1857, p. 137.

<sup>192</sup> *Annals of Iowa*, 3rd Series, Vol. IX, No. 3, pp. 177, 178.

<sup>193</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 61.

<sup>194</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 123, 124.

With the adoption of the Constitution in 1857 it became necessary to make modifications in various laws; and a revision became very desirable, if not a necessity. Governor Grimes declared that "all the general laws of the State require some modifications to adapt them to the provisions of the New Constitution. Several new acts of a general character will also be necessary."<sup>195</sup> Governor Lowe urged the adoption of a new procedural act and the publication of a new edition of the Code, which, as he declared, "might perhaps be left to individual enterprise, as it is known there are persons now preparing and taking the initiatory steps for such a publication."<sup>196</sup>

The condition of the statutory law of Iowa had now reached the point where it was deemed advisable in 1858 to appoint a new commission, which eventually reported the *Revision of 1860*, thereby displacing the *Code of 1851* as the law of the land.<sup>197</sup>

Leading jurists and writers declare that this first Code of the State of Iowa is, in many respects, a model. It is concise and clear; and as Mr. Justice McClain states, it "set a precedent for the embodiment of statutory enactments in plain, direct and intelligible English."<sup>198</sup>

Many tributes have been paid to the *Code of 1851*. Mr. Justice Deemer declared it "was one of the best arranged, most systematic and thoroughly considered body of laws ever enacted by any state.— It was one of the early models, — and has hardly been excelled."<sup>199</sup> In like manner has Mr.

<sup>195</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 41.

<sup>196</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 124.

<sup>197</sup> *Revision of 1860*, Preface, p. iii.

<sup>198</sup> *Annals of Iowa*, 3rd Series, Vol. IV, p. 609.

<sup>199</sup> *Annals of Iowa*, 3rd Series, Vol. IX, pp. 175, 176.

Justice McClain praised the work.<sup>200</sup> The Code Commissioners of 1858, who prepared the *Revision of 1860* declared in their report that the method of arrangement in the *Code of 1851* "is so good, and so well understood, that a change would neither be sustained by reason, nor by the approval of the people."<sup>201</sup> But by far the greatest tribute which could be paid to it is the fact that every code since prepared in the State of Iowa has followed the arrangement set forth in this book and in Iowa's last code are scores of statutes taken directly from the pages of this earlier work.

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IOWA CITY IOWA

<sup>200</sup> McClain's *Charles Mason — Iowa's First Jurist* in the *Annals of Iowa*, 3rd Series, Vol. IV, pp. 606-609.

<sup>201</sup> *Revision of 1860*, Preface, p. v.

## NOTES ON THE FOX INDIANS

BY WILLIAM JONES

[The notes which follow are reprinted, with permission, from the April-June, 1911, number of *The Journal of American Folk-Lore*. The Foxes occupy perhaps a more prominent place in Iowa history than any other tribe of Indians. For many years these Indians together with the Sauks, with whom they were confederated, lived on the eastern border of what is now the State of Iowa. In 1832 these two tribes ceded to the United States government the famous Black Hawk Purchase, which first opened up eastern Iowa to settlement. Furthermore, the only Indians living at present within the bounds of Iowa are members of the Fox tribe, now known as the Meskwakis, who have for many years made their dwelling in Tama County.<sup>1</sup>—EDITOR.]

[NOTE.—The following notes were found among the manuscripts left by Dr. William Jones, who was murdered in the course of his explorations in the Philippine Islands. They are given here, without any modification, as they were written down by the author. The notes evidently form part of his extended observations on the Fox Indians.—FRANZ BOAS.]

### WISA'KA

*Wisa'kä and Creation of the Earth.*—Wisa'kä now lives far off in a place where it is always winter. It is so far away that nobody can go there. Once on a time long ago he lived here on earth, he and his younger brother. At that time the manitous became angered against the brothers, and met in council to devise means how they should best do to kill them. They succeeded in killing the younger brother, but with Wisa'kä they could not accomplish their purpose. First they tried fire, and then they used water. They

<sup>1</sup> For information concerning the Meskwakis see Ward's *Meskwakia* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. IV, pp. 179-189; and Ward's *The Meskwaki People of Today* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. IV, pp. 190-219.

searched for him everywhere; they made a great roar and a din as they moved in their search.

The water drove him to flight upon a high mountain. He had to climb a tall pine on top of the mountain. From thence he took to a canoe which slid off the top of the pine, and about over the water he went a-paddling. A turtle-dove fetched him some twigs, and a muskrat brought him up some mud. With the mud he made a small ball, and into the ball he stuck the twigs. He flung them together into the water. The ball grew so fast that the water straightway subsided. The earth we now live upon was from the little mud ball which Wisa'kä flung into the water.

*Six Men visit Wisa'kä.*—Once on a time six men set out to visit Wisa'kä in his lodge at the north. The journey was far, and full of toil. On the way they had to pass over the place where the sun goes down. It was an abyss, and not easy to pass. They watched the mouth close and open; back it closed and opened again. Five men stepped safely across when it closed; but one lost his footing, and fell in.

The men had no means of rescuing their comrade, and so had to go on without him. They came to a sea; and while they looked out on the water, they beheld a narrow sheet of land floating towards them; it approached with the side towards the shore. When the shores touched together, over they hopped, and out to sea they floated. They were carried to the shore of another land.

They stepped across on the strange shore. There was land all the way from this place to the lodge of Wisa'kä. They saw the lodge from afar, and it was beautiful to look upon. They drew nigh and beheld two doors in the lodge; one opened at the south, the other at the north.

Within sat Wisa'kä, he and his grandmother, Mother-of-all-the-Earth. Both were seated on a mat on the ground; they sat beside each other, and before a fire.

"Behold, and here have come my uncles!" said Wisa'kā. "Be seated." Then he said to his grandmother, "My grandmother, fix food for them to eat." And Mother-of-all-the-Earth rose and began to prepare food. She laid a mat in front of her grandchildren; on the mat she set wooden bowls, and in the bowls was a mixture of buffalo-meat and hominy. The buffalo-meat had been cured over a fire and in the sun, and then pounded in a mortar; the hominy had been ground into meal. Both were put together in one dish, and her grandchildren had never before eaten any food so delicious. When they had eaten, they sat back, and smoked the tobacco which Wisa'kā had given them to smoke. Long they smoked, and in silence.

By and by Wisa'kā asked, "What do you wish, and why have you come? Surely you must have come for something."

One spoke, and said, "I seek to know the ways of women, for I wish to find myself a suitable wife among the women at home. For this reason I have come, and I ask that I may take the power with me; I wish to pass it on to others who may long for the same thing."

Wisa'kā made reply, and said, "You ask for a great gift. But you have been a good man, and you have come from afar. For this reason I give what you ask."

Another spoke, and said, "I come for power to heal the sick and to make possible long life."

Wisa'kā said, "The pine lives a long time, and then dies; but the granite lives on forever." And then he transformed the man into a granite boulder.

A third man said, "I come to ask for power to prevail over those who play against me at lacrosse, who run against me in a foot-race, who take sides against me in all games of chance."

Wisa'kā gave to the man what he asked.

The fourth man said, "I come to ask for the power that will enable me to get game with ease. I wish for the power that will guide me straight to the place that game of all kind frequents."

And Wisa'kä gave the man his wish. Then Wisa'kä loosed the cord from his moccasin and held it over the fire. The cord shrank to half of its former length. He held it up, and said, "Thus, by half, is the length of your journey shortened."

The men rose and departed, and went by the way they came. They arrived at home in half the time that it had taken them to go to the lodge of their nephew. Verily, the journey was shortened by half, as Wisa'kä had said.

The men lived and practised every one his own peculiar power. But the power of the hunter had evil effects. It worked ill with every one who chanced to cross the path along which it had been carried. It wrought weakness to the body, and shortened life. None dared to live neighbor to him who held the power.

#### THE ORIGIN OF THE SAUKS AND FOXES

*Origin of the Sauks (Fox Version).*—The Foxes are an ancient people, more ancient than all others; and every nation that ever came on a visit bore testimony to the fact. They are even so ancient that none among them ever knew when first the Foxes came upon earth. It must have been a great while ago when the great manitou placed the first of our people here on earth.

They dwelt a long time by the sea. Old men used to congregate at the shore, where they could sit and look out over the sea. On one of these occasions they beheld an object coming from afar, and making straight for the shore where they were. They watched, and saw that it was a huge fish. For a while its head reared above water; and when it

ducked beneath, up came the tail a-switching. Thus it came, first the head out of the water, and then the tail.

When the fish drew nigh, the people saw that its head was like the head of a man, and they were astonished. They watched it come to the shore, and when it arrived in water too shallow for swimming, it rose; and every part that was lifted out of water became the same as a man. The tail was the last to change; it became legs and feet after leaving the water behind.

Behind the strange being came a great school of other fishes, and the same thing happened to them. They changed from fishes into people. They went up from the water and followed their leader. He was bigger and taller than all the rest. He was their chief. He led them off to a place close by the town, and there they made themselves the same kind of a town. Everything they saw they copied. Everything they saw the Foxes do, they went and did the same.

The Foxes asked them who they were, why they left the sea, what manner of life they had while there. But the new folk were unable to tell. All they knew was, that they had lived in the sea, that one day they followed their chief in-shore, and became transformed into people when they quit the water. Nothing more could they tell.

Thereupon, because they knew nought of themselves while in the sea, the Foxes named them Osagiwag, which is "people who come out into the open." They gave the name as a symbol to show that they came from under the water, that they came out from one kind of creatures and entered the form of another, and that they came out of one manner of life and entered into another which they knew nothing of before. It was a sign that they came out to become a race of people.

*Creation of the Fox.*—The Fox was the first of men on earth. He came before all others. He was red at the face,

at the hands, at the legs, all over his body everywhere. He was red, like the color of the blood within him. Such was the way he was made by Wisa'kä, and such was the way he looked when his maker let him step forth on earth among the manitous.

Among the manitous he mingled. He was present at their councils, and had the right of speech. The manitous looked upon him with wonder, and made comment when he passed in and out among them. He was very much of a manitou.

Afterwards came other Foxes, manitous like the first. By and by they grew great in number. As time went on, they took on the form, the looks, and the nature, of the people that they now are.

Things have changed since those times. The people are now in distress. They no longer reap the good of the land which is theirs; little by little it is slipping from their hands. Bird and animal kind is vanishing, and the world is not as it was in the beginning. With all this the manitou is displeased. On some day in the future the manitou will take it upon himself to destroy this earth. He will then create it anew, and place his chosen to dwell there once more. In that day the Fox will look as he did in the beginning; he will be red all over the body, red as the blood within him.

#### MANITOUS

*South Manitou, Star, Sun.*—The name of the south wind is Cawanaanwi, and Cawan is the name of the great manitou of the south. He and the South Wind are friends. In the lodge of Cawan dwell the Thunderers, that go forth to guard the people.

Cawan and Wisa'kä are friends. A road leads across the sky from the lodge of one to the other. A Star journeys along the road, and stops midway between the two lodges. The stop is at noon, and is taken with a little rest and gossip

with the Sun, who happens along at the same time. His path leads westward from a lodge at the east. His stop is for only a short while. It would never do for him to delay long; we should all speedily burn up,— we, and the world and all that is in it.

*Cawano; the Thunderers.*— There dwell four Thunderers in the lodge of Cawano. They are the guardians of the people.

*Sky Country.*— Above the clouds somewhere, far into the distant blue, is a wide country. Manitous without number dwell there. A long lodge stands on the shore of a great white river, and in the lodge abide many manitous. Among them is one great manitou who is chief of the sky-country manitous.

Much doing goes on in the lodge, such as singing, dancing, and feasting. The sound of the drum, rattle, and whistle, is ever in the air. Frequently the Thunderers leave the course of their beat and stop at the lodge. There they are feasted with choice food. But their visit is short, and then they are gone again. Some people are destined to live in that country after this life. Our knowledge of the place and the doings there comes from them.

*Thunderers and Other Manitous.*— There are four great manitous that keep watch over us,— one on the north, one on the south, one on the east, and one on the west. They dwell aloft in among and beyond the clouds; and we call them Neneme'kiwag. They move to and fro, here and there, and keep a constant watch over the safety of the people. They frequently meet; then we hear them move with heaving rumble. In their anger they strike with fire. They hold in check the manitous of the wind and storm, and keep them from devastating our homes. When one beholds the trees ripped off and toppled over, one should know that it is the doing of the manitous moving in the wind. Often the wind

leaps, and leaves an intervening space untouched. Such a thing is the doing of a manitou. Such is how the manitous spare the homes of the people from danger; such is how the winds often leave them unharmed. A mutual feeling of good-will prevails between the manitous and the people. Such is why the manitous first look where the people are before they strike the earth with fire.

Above the manitous, far up on high, are others who are in great number. They keep themselves familiar with affairs on earth, and look down upon the people with compassion. They have a chief, and he is called the great manitou.

Beneath the earth are other manitous. They have charge of water and fire. They supply the people with trees and with the fruits of every kind of plant. They are also acquainted with the people on earth and with the manitous of other worlds. Among them is a manitou who is like a chief; he, too, is a great manitou. These manitous often come upon earth and pass among the people; they are not always visible to the eyes of everybody. They and other manitous hold communion one with another; they often meet in council.

*Thunderers as Protectors.*—The Thunderers are kept busy with watching over us. The coming of wind and the approach of clouds are sure signs of an immediate presence of the Thunder manitous. They grow angry at the sight of wrong done to us. With great effort they restrain themselves when they behold the people driven to an extremity, when they behold the people enduring wrongs beyond all endurance. Naturally there must be an end of this thing; it will be on a day yet to come. The Thunder manitous will no longer withhold their patience. In that day they will crack open this earth and blow it to pieces. Where the white man will be hurled, no one knows, and no one cares. After

this, the manitou will then create this world anew, and put the people back into it to live again. In that day they will no longer be pestered with the white man.

The white man often gets a gentle reminder of what he will come to if he does not let up with his overweening arrogance; it's when he beholds his houses blown away by the wind and struck with lightning. That he quite fears these things, is shown by the way he takes to a hole when such danger is in sight. He flies to it like a prairie-dog; it seems quite natural to him.

But with us it is different. When the sky is full of wind and shooting fire, out of the lodges we go and meet the manitous there; to them we make an offering of sacred tobacco, and they are pleased.

*Attitude of People toward the Thunderers.*—There are four great Thunder manitous, and their abode is in a lodge at the south. When they are there together, they sit one on the north, one on the south, one on the east, and one on the west. In such wise they sit and hold council, and tell of their wanderings across the sky. These four manitous are mighty.

We stand toward them as a child toward its parents. We feel safe in their power of protection. That's why we go to meet them when we hear the sound of their approach. They look down at the holy tobacco in our hands, and it pleases them. Even though our houses are made of poles stuck into ground, and of sheets of bark, and of mats hung on with thongs, yet withal the Thunderers send no wind or rain so strong as to beat them down.

*Northern Lights.*—In the winter, flames of fire flash upward from the place where the northern sky meets the earth. They are the ghosts of our slain enemies trying to rise. They are restless for revenge. The sight of them is an ill omen, it is a sign of war and pestilence.

*Fire.*— Our fire comes from the manitous who live in the world under the earth. They created the fire, and it is theirs. All their time they spend watching after and caring for it. The fire that people use first came from this place under the earth. Even the Thunderers, who keep watch over the people, obtain their fire from the manitous of the underworld. This is the fire one sees flashing from their mouths when they pass across the sky.

*Snakes.*— We never kill a snake, because it is a manitou; anyway, it is not safe to kill a snake. The manitous keep watch for the slayer, and hurt him in some way, either by illness or by an accident. A sudden swelling of the arm or leg or jaw, or in any part of the body, is a sign that the manitous are getting in their baneful work. The manitous have a way of prolonging the pain and agony; they bring the person up to the threshold of death, but don't quite let him pass in.

For the same reason we do not kill an owl, fox, or wolf. They are manitous, and we and they are friends. We often meet and converse; they understand us, and we understand them.

*Toads.*— Toads are manitous, and they are our grandparents. They live in the summer lodges, dwelling in the ground under the platforms. We like to have them there because they have the power of healing the sick. They are peaceful beings, and they have a friendly feeling towards us. It is meet never to kill them.

*Earth and Plant Life.*— The earth is grandmother both to us and to Wisa'kä. Her name is Mother-of-all-Things-Everywhere. This grass, these sprouts, and these trees are as the hair upon us, only upon her they are not hair but as mortal beings. They are all grandparents to us. They hold converse with one another the same as we do, and they discern what passes on among people, as between you and me at this moment.

The murmur of the trees when the wind passes through is but the voices of our grandparents. Often a whole forest hums with talk, and the trees can be heard at a distance. They have joys and trials like us. So we often hear the sound of their laughter and the sound of their lamentations. Hence one should be careful not to hurt their feelings. That is why it is meet to offer a tree tobacco when one is about to cut it down; that is why it is good not to fell trees wantonly.

The trees woo in the spring-time. They yield and refuse, the same as people. They whose tops bend and meet together are such as find each other agreeable; and they that sway apart are not so congenial. Not till later in the summer and fall does one know the trees that have mated; such are these that bear fruit and acorns.

*Corn — Grains of Corn.*— Wisa'kä gave the corn to the Red-Earths to be used by them as the best of all their foods. It is even a manitou, and that is why it is so nourishing.

Every grain has the nature of a human being. "It shall not be removed from the cob except to be eaten and to be planted," so commanded the manitou in times gone by. It should never be wasted, yet people forget; and when they become careless and wasteful with the corn, then the little grains weep; they become sad, like children neglected and left alone.

#### REMARKS ON CLANS

*Fox Clan and the Animal Fox.*— Wako denotes a member of the Fox Clan, and Wakucä is the word for a fox. One is applied to a person, the other to an animal; but both express the same meaning, which is that the person and animal are one and the same.

The manitou looks upon both as the same kind of creature. They are his friends, and he pities them alike.

Once the manitou wished to create something which would give him special delight. So he created a fox. The covering on the fox shone like silver in the sunlight. The manitou was pleased with the looks of what he had made.

Then he let it down on the ground to see whither it would go and how it would behave. It started off on a run and went toward the south, but the place grew so warm that the fox became faint and could not travel. The heat of the place angered it and caused it to return northward. On the way back the fox regained its strength and soon fell into a run. It kept on until it arrived at the lodge of Wisa'kä. Wisa'kä took the fox inside and gave it welcome. He was pleased with it and gave it food.

All this took place in the sky country.

The fox left the lodge of Wisa'kä and descended down to earth, and here it has been ever since. It is guardian to all those who bear the fox name.

*Bears, and People of the Bear Clan.*— There is no difference between a bear and one who goes by the name of a bear; both are the same, they are like brothers and sisters. The manitou created them alike in the beginning; he made them like bears, and they moved on four feet and under a heavy robe. Their life was the life of the bear.

The resemblance now between a bear and one of the Bear name is not as it used to be. They of the Bear name walk with the body erect, and the manner of their life is different. How this came to be, and when, no one knows, and is not likely to know. One thing only is certain, it was the work of the manitou.

Bears are present at all gatherings of the Bear-people; they are not always visible, but yet they are there, and their presence is always felt. Bears, and people of the Bear name, are still brothers and sisters. That is the way the manitou willed it in the beginning, and that is the way it

shall always be. Fathers with a Bear name shall call their children by something peculiar to a bear; this shall they do till the end of time.

#### WITCHCRAFT

*Witches.*—There are some persons among us who are witches. It is not safe to anger such people, because of the risk of having to suffer. A witch works evil in various ways. All that a witch needs to do is to touch a man on the shoulder, and it will not be long before the man will feel pain there. A witch may brush against a man on the hip, and the place will soon be big with swelling.

Witches have great power, and they can work evil at a distance. I once knew of a witch that had something in a knot as big as my thumb. There was magic power in the knot, and the power was of long range. The witch would speak to the power in the knot, and tell whom and where to hit. If the witch said to hit so and so on the thumb, so and so would be struck on the thumb and suffer swelling there. It never failed to do execution. Magic power, the same as a witch, enters a lodge by way of the door.

Witches like to travel by night. They often spit fire as they pass; the flash is frequently so big as to light up the whole landscape. They often seem in great hurry, passing by with a whirl and a hiss in their wake. A witch frequently goes forth in the form of a bear. The swing of its walk is slow, and a grunt comes with every step of the foot; and at every grunt is a flash which lights up the path in front.

It is possible to kill a witch, but not always on the spot. A witch is said to live four days after a fatal wound. One who dies without any sign of previous illness or as soon as one has been taken with sickness is usually looked upon as one who has been a witch.

It seems that the manitous do not like for witches to visit the graves of the dead. Hence every grave is guarded by four manitous. They station themselves about ten paces northwest from the grave. They keep watch by turns; one stands guard while the other three sleep. Witches are accustomed to visit a grave at night. A witch approaches with a whirl, and lands at the grave with a thud. It stamps on the ground, and immediately up from the grave rises a ghost. The object of the witch's coming is to take the ghost on a wandering journey in the night.

As soon as a witch arrives, the manitou on guard moves up and lays hold of the witch before it can get away. If the witch makes a promise not to visit the grave again, the manitou is likely to let it depart. But usually the guard awakens the other manitous, and they cut the witch up into pieces, which they scatter over the grave as a warning to other witches. The manitous depart at the coming of dawn, and return again at dusk.

*Seers.*— Among us are some persons who have power to look into the future, and therefore can foretell when anybody is going to die or whenever anything is going to happen. There are also other persons who can see witches as they travel about at night; and they can also see those people who have long since been dead. Of course, what they see is the ghosts of the dead, for it is a common thing for ghosts to travel forth at night. Yet it is not so easy to hold converse with ghosts. Persons who can see them can of course speak to them, but ghosts do not always answer back; and when they do answer, it is not always possible to catch what they say.

#### GHOSTS AND THE SOUL

*Ghosts.*— Ghosts will not come to the halloo made by blowing upon the palms clasped, with a hollow inside; but

they will come to a whistle long sustained. The sound of their approach is like the pit-a-pat of bare feet on hard ground. They come up on the run, with bodies forward, arms extended backward, and with wild looks this way and that. They come through the air, and light on the ground with a thud; and then they stand silent by the caller's side, waiting to know the cause of their summons. This takes place in the night, and may happen at any time between dusk and the sight of coming dawn.

*Soul.*—Nogänaw is in the heart of every man, woman, and child. It often comes forth when one is asleep, and wanders around, but it remains in its abiding-place while one is awake. It goes in the form of the person in whose heart it dwells. Its movement is swift and silent.

It leaves the heart when a man is at the point of death. It goes to the lodge of Teipayaposw in the spirit-land. If it returns without delay, the man will live; but if it tarries, the man will die. It returns after the man is dead, and lingers four days about the old home. Then it goes to the spirit-world to stay for good.

On the way it meets a manitou that opens the top of its skull and takes out a pinch of brain.

#### TOBACCO

*Source of the Present Sacred Tobacco.*—The tobacco once failed, and there was no more to be had. Thereupon a man went into a fast. Once as he lay asleep, the manitou appeared unto him and spoke these things:

“Arise, and prepare thyself for a journey. Four days thou shalt travel northward, go till thou comest to the sea. I will guide thee into a grove, and bring thee up to a tree the top of which will curve downward. One branch thou wilt see pointing straight down at the ground. There thou shalt look, and thou wilt find a plant tiny and tender. Take

up the plant and fetch it home. Be watchful in thy care of it, for it is holy. Thy people will have need for much use of it."

The man did as he was told. That is the source of the tobacco which we now have for sacred use.

*Tobacco, its Growth.*—Tobacco is grown in an out-of-the-way place which people are most likely not to frequent. A number of aged men personally tend it during growth, and see to its drying and preparation for use. They pluck the leaf and take out most of the main stem, leaving only enough of it to keep the leaf together. The leaves are laid out on a flat wooden surface and dried in the sun. After the drying, the tobacco is crumpled between the palms of the hands, and crushed into powder. The shoots and the poorer growth are sorted out and put aside for individual or social smoking; such kind is used for medicine or as an ingredient for some medicinal mixture. It has no ceremonial use.

The better tobacco is put away for holy purposes; it is burned as an incense; it is smoked during a ceremony; and is used as an offering, either burned or otherwise.

It is the custom for no woman to go near the place where the tobacco is growing, or to be around where it is in process of drying and preparation for use. It is believed that during such a period a woman can do tobacco much harm; the harm can be partly unintentional on her part. The character of the harm is a loss of magic and sacred effectiveness. When things don't turn out right by the use of holy tobacco, the blame is liable to be laid to some woman.

#### IOWA

The country toward the south is too warm in summer; the water there is not good to drink, and the hot winds parch the soil and the plants that try to grow. The country at the north is better than that at the south. Game is more plenti-

ful, and rice can be gathered from the lakes. But the winters are too cold. The land westward is too much prairie, wood is scarce, and water is not always to be had. We have reason to be satisfied with the place where we now dwell. There is not too much prairie; wood is plentiful, of which there are many kinds, and enough for all our needs. Water is always good to drink. Winters are never too cold, and the summers are always pleasant. It is our wish to dwell here always.

#### HEARING AND UNDERSTANDING

We hear sounds all around us. The mere hearing of them is by way of the ear. That is one kind of hearing. Another is by way of the mouth, and that gives us understanding. It happens in this way. We hear a spoken word and are able to catch its meaning. The sound of the word came by way of the ear, but the sense came by way of the mouth. The sense enters and lodges within us, and becomes a part of us. Such is the source of our understanding.

We often fail to grasp the meaning of the spoken word. The reason of the failure is that the sense hovered in front of the mouth, and flitted away before finding an entrance.

And we sometimes find it hard to understand. The reason for the difficulty is that the sense was a long while beating against the face before it finally hit the entrance and flew in.

#### APPROPRIATENESS OF DRESS

We let you inside the lodge because you are one of us,—not one of our clan, but one of our people. One thing only we ask of you: it is that you remove your hat and your coat before you enter the lodge. Leave them behind. The reason is plain: the manitous are inside the place; offerings are being made to them,—offerings of prayer, song, tobacco, and foods of many kinds. The manitous are pleased with these things. No one is there with hat or coat, everybody is in

appropriate dress. So what we ask is merely for the purpose of removing the fear of disturbing the peaceful presence of the manitous.

#### BEAR-CLAN FEAST AND DAVENPORT

It is not our custom to let white people inside the lodge during a feast of the clan. There was once a white man who was our friend. His name was Davenport. He spoke some Fox. He liked us, and there was always truth in what he said. For these and other reasons we used to ask him into the lodge; he came, and was glad to be there.

#### SOCIAL DIVISIONS

There are two social divisions in the tribe,—Kicko and To'kan. One enters a division at birth. The father usually, but not always, determines which division his child will enter. If he is a To'kan, it is likely his children will be the same. Often the first-born is the same as the father, and the next child is the other. No distinction is made on account of sex.

The division creates rivalry in athletics and in everything where the spirit of emulation exists.

#### ADOPTION

*An Adoption.*—Tama, June 30, 1902. This morning I attended an adoption ceremony. The people were yet in the winter flag-reed lodges, and so most of the ceremony was held out-doors.

I arrived when the men and boys were playing at cards. There was gambling in the play, but things put up were of small value.

The invited were bidden to eat.

Just previous to the eating the adopted appeared dressed in holiday garb. Later both — for there were two — went

through the camps and among the crowd, covered with green blankets and in holiday dress.

After the eating, the To'kanagi and Kickohagi played at moccasin. Twelve sticks were used. In the circle were sixteen or seventeen men. They played with a lead bullet and four gloves. A long stick was used to find the bullet. Two leaders, a To'kana and a Kickoha, sat at the east end of the circle and beside each other. Each beat the can (for drum) and sang when his side had the bullet. Others of his side sang with him.

After the moccasin game, cards were played. Then came the ball game.

The players were called to the centre of the field midway between the goals. They faced each other in line,—the To'kanagi on the north side, and the Kickohagi on the south side. At the east end, between the two lines, stood the two leaders. They faced the west.

The two adopted sat between the lines of players, and faced the west. An old man stood near them and spoke.

The game was played in mud and pools, and was won by the Kickohagi by the score of four to nothing. This gave them the privilege to eat at a feast soon after the game. At the lodge of the adoption a short dance was held just after the game.

*Lacrosse played at an Adoption.*—Two boys went to the middle of an open ground and stood facing the west. They were in moccasins, leggings, breech-clout, blanket, and eagle-feather,—in full ceremonial dress. Both were made conspicuous with paint. One, on the right, was in green and black; the other, on the left, was in white. The one in green held a lacrosse-stick, with a ball in the pocket. Both stick and ball were colored green.

In front and on the right stood seven To'kan men. They were painted with black and blue. Facing the seven To'kan

men were seven Kicko men, who were painted with white clay. Both sevens held lacrosse-sticks in their hands.

An aged To'kan man stepped into the space between the sevens, and spoke to the players. A high wind was blowing, and it was difficult to catch all he said. The following was part of the talk:—

“We obtained this ball game from the manitou. It was given to us long ago in the past. Our ancestors played it as the manitou taught them; in the same way have we always played it, and in the same way shall our people continue to play it. Play hard, but play fair. Don't lose your heads and get angry.” . . .

After him spoke an old Kicko man, and the substance of his talk was much the same.

As soon as the second man had finished speaking, then the boy who held the lacrosse-stick tossed the green ball into the air between the two sevens, and the game was on. Then from the gallery came other players, until more than twenty on a side were at play. The game ended with the score of three to one in favor of the Kicko side.

A great supply of food had been prepared in a lodge near by the field. It was prepared and given by the people who had adopted the boys. By virtue of their victory the Kicko players had the right to claim the food as theirs. So, assuming the rôle of hosts, they extended an invitation to their defeated opponents to come to the feast and eat. At the same time they twitted them of the ease with which they disposed of them in the game. A few To'kan men accepted, placidly submitting themselves to the fun poked at them during the feast.

Two ponies, saddled and bridled, and laden with calico, blankets, and other gifts, stood in front of the lodge. As soon as the feast began, the boys climbed into the saddles, and then their ponies were led away toward the west. Each

pony was led by a man on foot. About half a mile from the lodge the boys dismounted and led the ponies themselves afoot. The men went back to the feast.

The departure of the boys from the lodge was a symbol that the souls of the dead whose places the boys took were then set free and on the road to the spirit-world.

#### KIYAGAMOHAG

The Kiyagamohag are the ones who do the fighting for us. When war is made against us, they are the first to go; others follow afterwards. They have manitou power, and the manitou looks upon them with favor. They have the power to change themselves into a thin mist. This mist is like faint blue smoke, and it enables them to keep out of sight of the enemy. When they die in battle, it is as if they were weary unto fatigue and lie down to sleep. They lie down with the hope of rising with the dawn in the spirit-world.

Kiyagamo takes the place of a comrade who has died in battle or in quiet life. There is dancing and feasting at the time, and it takes almost a whole day. Only the invited come to the ceremony. There is one who is in charge of all that is doing. He walks around with a whip in his hand, and sends away all who are not invited. He keeps up the enthusiasm of the dance; he prods any one who lags, and he often uses the lash. He sees to it that none shall sit while music and dancing are going on. It is not right to show lack of interest in the feast and dance, because it makes the journey of the soul slow, toilsome, and lonely.

The Kiyagamohag put some food in wooden bowls, and place the bowls with ladles beside the fire. Then they eat up all the food and put away the vessels. But this is only going through the act of eating and of putting away the vessels, for the food is yet in the vessels, and the vessels are still by the fire. The food is for the souls of dead Kiyag-

amohag. The souls come to the fireplace at dusk, and carry the food with them to the world of ghosts. There they, and the soul for whom the dance and the feast were made, eat of the food together.

The Kiyagamohag end the dancing and feasting when the sun is going down behind the west. They leave in a body, and go, beating on drums, and singing lamentations. The lamentations are sung for the soul then on its way along the spirit-road. The soul hears the songs even until it enters the world of ghosts.

#### TWITCHING OF EYE AND MOUTH, AND RINGING IN THE EARS

Twitching of the eyes is a sign that one will see a stranger: a young man will see a girl, he will fall in love with her, and she with him; a girl will see a young man, and the same thing will happen to them; and old folks will have a visit from old acquaintances.

Twitching at the mouth is a sign that one will eat something particularly delicious.

A ringing in the ears means that one is being talked about; in the right ear, it is of good report; in the left, it is unpleasant.

#### FASTING OF CHILDREN

Some children are born with dark complexion. It is a sign that they have manitou power, which makes it easy for them to commune with the manitou world. Such children begin early to acquaint themselves with the mysteries of life and the spirit-world. They learn to converse with ghosts.

They fast and keep vigil. Four days they remain in that state. They go with faces painted black with charcoal. A face blackened with charcoal is a sign that the child seeks the presence of the manitou. Often children fast merely for the sake of reaching the presence of the manitou; but fast-

ing in this way usually comes to an end when a child has arrived at the age of ten, sometimes twelve. Fasting after that is for a purpose.

But in these days few are the children who come born with an easy access to the manitou.

#### DEATH

*On Death.*—All of you remember when I was very ill and everybody seemed to think my time had come to die. My feeling about death at the time was the same as it was before the illness.

I would have died with a calm and easy mind. I asked that my garments be as plain and simple in death as in life, and that my face and body be free from ornamentation with paint or jewel. It was my wish to appear the same in death as in life, for I dislike the idea of getting into a gay costume.

Much display at a funeral never has impressed me with deep feeling; and so I desired that no undue ado be made at my burial, and that the reverent regard for the last lingering moments of my soul be shown with silence and repose.

It is natural for one to die, and hence there is nothing unusual about it. It is the same as going on a far journey, and I like the thought of making it as a journey here in life. I know that yonder behind the west, somewhere in the great distance, there flows a river, that over the river is a bridge for me to cross, and that there on the farther shore awaits one who will give me welcome. I do not know what my life in the spirit-world will be like. I concern myself little about the thought of it. I simply rest confident that I shall find it natural and simple, the same as here.

Such are my notions about death, and I have yet no good reason to change them.

*Burial.*—I once saw a body brought to a grave on a stretcher. The stretcher was made of two long poles and a reed mat. The poles ran parallel, about two feet apart; and the mat doubled into half, forming the bed in between. Four men carried the body, the shoulder of each under one end of the pole.

Over the mouth of the grave, and resting on supporting sticks, lay the coffin, which was made of pine planks. The body, wrapped in the mat of the stretcher, was laid in the coffin.

The face of the dead was then uncovered. Two vessels — one with food, another with water — were placed beside the body. An elderly man stepped up to the head of the coffin and sprinkled holy tobacco over the place where he stood; and then he delivered a farewell to the dead, sprinkling the holy tobacco over the body all the while he talked.

When he was done talking, then friends and relatives walked up to sprinkle some more of the same kind of powdered tobacco. Relatives of nearest kin added parting words in an undertone.

The coffin was then lowered into the grave by the burial attendants, and covered over with earth. Over the mound was built a shelter made of the logs of small trees. It was to keep burrowing animals from injuring the grave. At the west of the grave was stuck a stick with a curve at the top. The curve was painted red, and pointed westward. Two dead puppies were placed in front of the staff. Both faced the west with legs outstretched, and were represented as if running along ahead. They had been choked to death a little while before, and were still warm and limp. Small bands of red cloth were tied about each neck and each front foot.

A man closely related by blood to the dead sat a few steps away from the head of the grave. About him was a quan-

tity of goods of various sorts. The goods consisted of calico, blankets, beads, and domestic articles, like wooden bowls and ladles and woven bags. They were gifts for the burial attendants. The man waited until the mourners and others began to disperse, and then distributed the presents. The burial attendants were the last to leave.

*Behavior at Death.*—Death in the village creates silence and calm throughout all the lodges. Conversation is subdued and held in an undertone. Laughter is controlled, and children are permitted to make no noise.

*Burial and Funeral Rites.*—A girl had died. Her father then went out and asked a number of men to look after her burial. The mother had women come to care for the body and dress it. The men dug the grave, and at noon they fetched the body there.

A man had been chosen to say a farewell to the dead. He was the first to sprinkle holy tobacco on the body, and after him came the attendants. Then the body was lowered into the grave and covered over with earth.

When this was done, the father began the distribution of gifts to those who had helped at the burial. The gifts consisted mainly of things which the parents had got for the purpose, like garments and the material for garments. But some of the things were the girl's own personal belongings, and they were given to the attendants she had known best, and with whom she stood in an intimate relation.

The attendants had had nothing to eat all day. In the evening, after the sun had set, they went to the lodge where the girl had lived. There they found food already prepared for them,—the best kind of food that the parents were able to get. The father and mother ate with them. This was done every evening for four days. The men ate nothing during the light of day, and came to the lodge at evening to eat of the food which was laid and prepared for them. It

was done with the idea that the soul of the girl lingered four days and four nights about the old home, and then went its way westward to the spirit-world. It was, furthermore, a symbol of feeding the soul. The soul partook of the food through and by means of each one who ate.

*Sacred Tobacco at Burial.*—Sacred tobacco is sprinkled on the dead as an offering to Tcipayaposwa. The soul takes it to the spirit-world, and there gives it to Tcipayaposwa. The soul names the persons who made the offering. This pleases Tcipayaposwa. He listens to their prayers, and brings to pass the things they ask.

*Mourning at Burial.*—Sometimes a lament is sung at burial. It comes after the grave is covered over, and when all but the relations have gone. Often only but one remains to wail the lament. It is believed that the soul hears the song, and takes it away after the fourth day, when it departs for the spirit-world.

*Feeding the Dead.*—I was once stopping at an old woman's lodge. With her was living a young man who was cousin to her. One evening at dusk she asked us inside, and gave us a small bowl of blackberries cooked with maple-sugar. She withdrew to another part of the lodge, where she sat in silence.

When we were done eating, we went back outside, and this is what the young man told me out there:—

“She once had a daughter, and she was fond of her above everything else. The girl had grown up, and was kind, obedient, and never a care on her mind. By and by the girl died, and it seems that the mother has never been happy since. I have often found her alone, and seen her wet in the eyes; that is when she has been thinking of her daughter. Her thoughts seem constantly about her. She believes that when she is asleep, the girl comes to her and often converses with her.

“What she did this evening, she has done over and again. She seldom forgets her daughter when she has something delicious to eat. She likes to prepare it as she did the berries, and call somebody in to eat it. She does it because she is feeding the soul of her daughter. She gets a good deal of consolation on these occasions, because she feels that then her daughter is present. To have us eat the berries was the same as having the soul of her daughter eat them. We took the berries into our bodies, but they have nothing to do with the nourishment of our bodies. It is the soul of the girl that gets the good of the berries.”

#### MOCCASIN GAME

The appurtenances of the moccasin game contain four moccasins, a lead bullet, a bullet-finder, twelve point counters, a number of game tallies, a blanket to play on, and a drum to sing by. The moccasins are usually of buckskin, of man's size, and laid side by side with soles down. The lead bullet varies in size; one about a quarter of an inch in diameter is good. The bullet-finder is a stick about as thick as a finger, and varies in length from two to three feet; it can be dispensed with, the hand can be used instead. The twelve point counters are small wooden stems, each of which is usually about as big and as long as an ordinary unused lead-pencil. The game tallies are short sticks sharpened at one end to stick in the ground; their number depends upon the number of games required to win a stake. One stick stuck in the ground counts a game won. The drum is usually the kind held in the hand, and having but one head.

The game is played by two opposing sides, who sit on a blanket facing each other. Any number can play on a side, and a still greater number can take a side. The latter take no active part in the play; they can bet, and lend their sympathy.

One man at a time hides the bullet, and one man at a time hunts for it. The players take turns hiding and hunting; but he who is good at hiding, and he who is clever at hunting, have a longer inning than those not so proficient. The side that hides the bullet has the drum to sing by; they keep it as long as the other side fails to find the bullet. It follows the bullet, changing hands when it does.

The hunter seeks for the bullet with the finder. He uses the finder to turn over a moccasin or to strike it. To turn the moccasin over is a guess that the bullet is somewhere else, but to strike the moccasin means that it is there.

Twelve points make a game, and the side first making them wins a game. The scoring of points may be described as follows:

Let the moccasins be called 1, 2, 3, and 4. Let the bullet be hid under moccasin 2. If the seeker first turns over any one or two of the other three moccasins and then turns over moccasin 2, he loses a point. But if, after he has turned over any one or two of the other three moccasins, he then strikes moccasin 2, he wins a point. Furthermore, he gets the bullet, and it is his turn to hide.

If the seeker does not turn over any moccasin at all, but at once strikes moccasin 1 or 3 or 4, he loses four points. But if he happens to strike moccasin 2, then he wins four points; it is also his turn then to hide the bullet.

The side that first wins twelve points wins the game. If the other side wins the next game, then both stand nothing to nothing, the same as when they began. To win a bet, one side must hold a "love" score of games against the other. For instance, if each side puts up a pony and it is agreed that five games shall win the bet, then the side that gets five games to the other's nothing is counted the winner.

## VISITINGS

*Visit of a Stranger.*— It is best for a visitor coming to the Foxes for the first time to show himself as soon as possible at the lodge of the chief of the Fox Clan. The chief receives him with due hospitality. He welcomes him with a shake of the hand, he has food placed before him, and lights a pipe for the stranger. Then the chief waits to hear the object of the visit.

After the chief has heard what the guest has to say, he takes him to the chief of the Bear Clan. After an introduction, the Fox chief states what he has just heard from the lips of the visitor. This taking of the visitor to the lodge of the Bear chief is a sign that the stranger is welcome.

The Bear chief entertains him with food and a smoke, and offers the hospitality of his lodge. The visitor is then free to go to the lodge of any one he knows. His call on the two chiefs gives him protection while he is among the people. The tribe holds itself responsible for his protection. It holds itself responsible for any physical violence that may happen to him while on his visit. This responsibility lasts till his departure. The responsibility does not hold if the call is not made on the two chiefs.

*Visit.*— A stranger's first visit to a lodge means a good deal to him personally. He is on parade. He is not stared at, but nevertheless he is watched. Much is made of the eyes, for it is supposed that the character and direction of a glance have much to do with betraying the thoughts of the mind.

The placing of food before him to eat is one of the first acts of hospitality he meets. It is good etiquette to show that the food is delicious; soup should be sucked from the spoon with much demonstration; and nothing should be left on the plate uneaten, especially if the food was put there by

the host. Illness of a most apparent nature is the only excuse for inability. It is common to make the guest a present. This is a token of welcome and a sign of good-fellowship. A tactful guest will show his appreciation and gratitude more by his general manner and behavior than by word of mouth.

The subject of conversation can be on anything of mutual interest. But there are a number of topics which are almost sure to come out. For instance, an old man is apt to speak of past experiences; an old grandmother is likely to talk about her grandchildren; an unmarried man is liable to be subjected to questions about marriage, and may be made to listen to advice, partly in jest, of the desirability of a wife, the means of obtaining one, and where she is likely to be found. A young man who is unable to play at love is looked upon as abnormal.

It pleases the mothers and grandmothers to see the visitor bestow some attention on the children, but it is not good form to be effusive or over-attentive while the acquaintance is yet in the making. Over-indulgence is liable to be misinterpreted, and the visitor may be suspected of designs.

One takes leave at one's own pleasure, and can pass out of the lodge without a parting word with the host. The departure, however, must not be done while cooking is going on, or when a mat is being laid for a meal.

After this introductory visit, one is expected to look upon the lodge as a place where one is always welcome, no matter at what hour of the day or night one may happen in. The next reception may be shown with very little attention, with nothing more than a passing recognition of the caller's presence; it is sure to be free from any formality if the people happen to be engaged at the time in some kind of work, like the preparation of corn, the making of a mat, or getting ready for a ceremony. A feminine member will

come and spread a mat, and on it place vessels containing food. It is just as likely that this will be done in silence; the woman will return to her work without a spoken word, and leave the guest alone to his own devices.

*Visiting Relatives.*— Within the circle of one's kin and acquaintance one moves with varying degrees of familiarity. The character of the familiarity corresponds with the nature of the intimacy. Usually one can enter any lodge within this sphere, and violate no convention. It is expected that one shall know one's relations, both by blood and adoption. Lack of recognition of a relationship leads to a number of interpretations. One is that the relationship is ignored simply because of ignorance; such a fault is easily passed over. A second is based on a suspicion that one has committed something dishonorable, and that a feeling of shame leads one into isolation; blame of this kind is not rigorous. Another is that one feels an uncomfortable sense of the fact of the relationship, that one stands in a patronizing attitude and feels a kind of shame because of the connection; this is a serious accusation, and if one is suspected of ignoring the relationship to the point of disowning it, then the blame is pitiless.

It is not good form to call at a lodge where one is not acquainted, except in answer to an invitation or for some special purpose, as the conveying of a message and the doing of things that bear an impersonal character. This reception on such occasions is that of a stranger.

A simplicity of manner prevails on the side of both guest and host. The politeness and consideration shown on both sides is marked by naïveté and sincerity.

*The Return of a Relative.*— It is the first duty of a person who has been absent for a long time to visit his relatives. It is a good thing, though not essentially necessary, to take presents along.

## DISPERSION

*First Version.*—The Foxes used to dwell at the north, by the shore of the sea. There they lived until many nations came together and fought against them. Of all the nations, only two there were that did not war against them; they were the Ioways and Otoes.

There was a certain young man in the camp of the Foxes, and he had the knowledge and use of mysterious power. He beheld how sore the Foxes were pressed. And when the nations came and camped round about the Foxes, hemming them in from all sides, he blackened his face and fasted.

All this took place in the summer, at the season of ripening corn. By and by the young man came out of the fast. Speedily he sat down by a drum and began to beat upon it. At the same instant he sang a song; it was a song of prayer calling for deliverance. The song contained power; for, lo, it began to snow! All night long it snowed soft, silent, and deep.

The fighting men of the enemy had withdrawn to their lodges, and there great sleep fell over them all. In the morning the snow lay deep everywhere. When the sun hanged high, it began to be noised about in the camp that the Foxes had escaped; and then a great cry went up, "They have gone! They have gone!"

Thereupon the camp was moved with a great stir; bodies of men ran to and fro, seeking whither the Foxes had fled.

*Episode of the Dispersion.*—In the days when the Foxes were hemmed about and surrounded by the nations, a thousand men came together. They were the oldest in the nation. They called the young men together and spoke to them in this wise:—

"The end of our days is nigh at hand, and we have but a short while yet to live. We feel it best to free you of the burden of caring for us. We are now going forth to meet

the enemy, and we will fight as long as life and strength in us will permit. We shall never return; and when we die, it will be at the hands of the enemy, and, we hope, after we have caused them sacrifice. We leave a parting wish with you, young men. Protect the women and children. Treasure the mystery-bundles, and take care that you never lose possession of them."

And the old men went forth to battle, and never a one came back.

*Episode of the Dispersion.*—Of those that went into the northwest, four hundred women and a man were made captive. The name of the man was Ta'kamisäw. They were led away with hands bound behind their backs.

One night the women began to wail for their people, and they cried to the manitou for deliverance. Lo, and their prayer was not in vain! Deep sleep fell over their captors, and that same night they made their escape. By day they lay in the reeds of the hollows, and by night they journeyed over the plains. They were seen by the enemy on the fourth day of their flight, but they were able to make their escape. At last they overtook their people.

*Second Version.*—Long ago the Foxes dwelt in a distant land at the east. It was when all the nations came together and made war against them. They were a long time fighting, and many fell on both sides. The nations came and camped round about them, and the Foxes had no way of escape.

Then it was that the Foxes saw it was best for them to leave the land if they could, else they would all be slain. One night late in summer a deep snow fell on the earth. On that same night a man took a rawhide rope and started off on a walk; he held the rope in the hand, and let it pass over the shoulder and drag behind on the snow. Thereupon, men, women, and children fell into line behind the rope; they followed it out of the circle of the besieging camp, and

away from danger of the foe. So silently moved they out of the camp, that not a sound did the enemy hear during all that night. The fighting men of the enemy had taken to their lodges when the snow began to fall, and there they remained and slumbered until the sun rose on the morrow. And when they awoke and found the camp of the Foxes abandoned, a cry went up, "They are gone! They are gone!" Then they went in pursuit.

At the time, Wapasaïy was chief of the Foxes. He let the foe take him captive. He was led away to a place where a great throng gathered to behold him. There he was bound fast to a tree; his back was against it, and he stood straight. The warriors sat on the ground in front, and watched him in the face. The people drew nigh, and began to mock and reproach him. Stiff and rigid he stood for a long while, and without a word he took his abuse.

Then all of a sudden out came one of his arms, and he pointed his forefinger at them who mocked. Speedily a deep breath he took, and snapped the cords over his chest. The cords fell to the ground, and he walked forth from the tree. The people opened apart, and gazed upon him with wonder as he passed out of their midst. Verily, he was a manitou, and not an ordinary mortal.

*Migration.*—The Foxes journeyed northward until they came to a place where they parted in three directions. Some went past the head waters of the Mississippi, and fought their way through the land of the Sioux; then they turned southward, and journeyed over the great plain country; again they changed their course, and went eastward until they came to the broad Mississippi; they crossed the water and came to Rock River; they saw the land was good; they seized and held it, and there they dwelt.

Others went away into the northwest. It is said that they journeyed across the plains, and arrived at the source of the

Missouri. Here they stopped to live, and joined themselves with other nations.

The rest continued northward, and there they scattered again. They stopped among the lakes, and there they dwelt. There they can be found even to this day.

#### WABASAIY

Wabasaïy was a chief of the Foxes when they dwelt by the sea. He was not mortal, he came from the manitous of the sky country. He was chief when the nations came against the Foxes and surrounded them on every side.

In the camp of the foe were some Sauks and Kickapoos. These stole into the Fox camp, and warned the people of what would happen if the enemy prevailed; they warned the Foxes that they would all be slain,—all of them together, men, women, and children. The Sauks and Kickapoos advised them to make an escape, and promised them help to accomplish it.

Thereupon one evening a young man began to beat upon a drum and to sing a song. The song he sang was a manitou song, and it put the enemy to sleep and caused the snow to fall. The snow fell all night and piled up high; and while it snowed, a man went outside with a rawhide rope. He dragged it over the snow and made a trail, which the people followed. He led them eastward to a place where they fortified themselves.

At the same time a great host of young men slipped through the circle of the enemy, and went in another direction; they made a wide path in the snow purposely to draw the enemy into pursuit.

The enemy awoke in the morning, and found that the Foxes had left their camp. Straightway they began to look for them; and when they found the wide trail, they fell in, and followed it up until they came upon the young men

waiting in battle array. They rushed at the Foxes, and, oh, what a fight! The Foxes held ground until they thought that the old men, women, and children had secured and fortified themselves, and then they gave way. They fled toward the fort, and made it without being cut off.

The foes came with a rush, and flung themselves against the fort; but they were beaten back as often as they came. They were unable to make a breach. So many of them fell, that they lost heart and withdrew.

By and by the Foxes felt it safe to leave the stronghold. They went with haste toward the northwest, and came to a place where the seas joined with narrow waters. The straits were frozen, and they were passing over the ice when up from behind came the enemy on the run. They had the women and children pass on ahead, while they set themselves in array and waited.

As they watched the foe come on, lo, they beheld that they were only the Ojibwas, the nation that had taken the lead in all the war. The fight took place there on the ice, and it went ill with the Ojibwas. Some got away, but most went under the broken ice. After this fight, the Foxes had no further trouble with the enemy.

They continued their flight on a westward course; and when they had come to a great distance, they swung round toward the south. They kept going till they came to the country of Green Bay and Wisconsin River. There they tarried; and, liking the country so well, they decided to abide there and make the place their home.

This was not altogether pleasant for the people living round about. As a result, the Foxes had to fight them to hold what they held. On the north were the Ojibwas and Menominees; on the west were the Sioux. With these nations they were ever at war. At last, but still holding claim to the country, they moved southward into the Rock River

country, where their friends the Sauks lived. They joined themselves with these people, partly with the object of protecting themselves, and partly with the purpose of becoming stronger so as to hit back at their enemies.

The Sauks had come from the northeast, somewhere south of the sea. They were at peace with the Foxes on the north. After long years there came to be much going to and fro between the two peoples,—Sauks to the Foxes, and the Foxes to the Sauks. In time the two peoples began to get wives from each other; and since the language was so nearly alike, it was easy for them to make an alliance.

This kept up until the Sauks began to have trouble with the white man over the possession of the Rock River country. The Foxes as a nation took no part in the dispute. They moved across the Mississippi to a country which they claimed as a hunting-ground. Here they began to dwell when the Sauks went to war with the white man and the Indian nations that helped him. And here, when the war was over, came the Sauks, who found an asylum and a place of refuge. Both peoples lived in a way like one nation, but they had different chiefs and different villages. This continued so till they went to Kansas; and while there, they began to grow wider apart. Finally the Foxes were not satisfied with the way the Sauks were trying to control matters of common interest, and so went back to Iowa. Mäminwanigä was chief of the Foxes then.

#### CHICAGO

Once on a time long ago the Red-Earths were dwelling by the sea. During that time some men once went out to look for game. They stopped and made camp near the shore. On looking out at sea, they saw a black object off there. Presently they could observe that it was approaching. They kept watching till they made out a great skunk. It was making straight for the place where they were.

Thereupon they went into hiding. They waited for the skunk; and when it came out of the water, they killed it.

It was a big skunk; they had never seen one larger. Then they remembered that the place where they were was a region of many skunks. The big skunk probably lived there, and was on his way home when he was killed; so, at least, was what the men thought. They regarded the skunk as a manitou, so they named the region Place-of-the-Skunk. They meant by the name all that part of the sea where they saw the skunk, and the adjoining region, where the skunks were so many.

At the southern end of the sea is a white man's town to-day; it is a big town, and it had also the name of the Place-of-the-Skunk. It was near there somewhere that the Red-Earths killed the great manitou skunk.

#### AN INCIDENT

Once a man fasted. In the vision he had he was told that his enemy was to be found at one or the other of two hills. The hills were far out on the plains of what is now Kansas. He set out for the place to find his enemy. The enemy were the Comanches. The scouts on ahead reconnoitred the first hill which the adopted in his fast had seen. No enemy was found. The scouts reported no enemy, and pushed on to the next. Before arriving at the place, they came upon an old Comanche man picking the lice from his hair. Beyond him was a big camp of the Comanches.

The scouts did a most unusual act. They shook hands with the old man, they themselves extending first the greetings. This was contrary to all custom, for their mission was especially that of vengeance and death; and so, instead of showing peace and friendship to the old man, they ought to have slain him then and there. And then they should have reported the news of the camp to the main body that

was yet coming. The whole force then would surprise the camp by a sudden attack. But instead of doing what they should have, the scouts let the old man go to his village, while they retired in the direction of their main war-party.

In a little while the scouts were fleeing for their lives with the whole force of the Comanche warriors after them. The Comanches were gaining ground on them; and at the river the scouts saw on the opposite shore from them their war-party just coming down to the water to cross. The scouts pushed on to meet them, and hardly were they in the water when over the high bank into the water plunged the Comanche horsemen. The Sauk and Fox war-party came on to meet them, and the fight was fought in the water in the middle of the stream.

The Comanches were beaten back, and many scalps were taken there in the river. The dead Comanches were floated down stream after the scalps were taken from them.

In the retreat the Comanches left one of their men to cover the rear. He was a short man, with only a bow and a few arrows. He alone held back the body of the Sauks and Foxes till his friends had got far away. As the men rushed on him, he would feign as if to shoot, and thereupon the Sauks would fall back; the same thing re-occurring till at last the men rushed upon him, and trampled him under with their ponies. They had to ride over him, because they seemed unable to hit him by shooting at him, and he seemed able also to dodge their bullets!

The Sauks cut him open to take out his heart; but, instead of the heart that is usual for man to have, there was found in this man only a small piece of gristle. The possession of the small heart was what made him the brave man that he was!

#### BLACK-HAWK WAR

The Sauks and Foxes were living together at the time, in the Rock River country. White people had been coming

in for some time, and helping themselves to the land. Wherever they selected places to live, there they settled down and began to make homes for themselves. The people beheld these doings, and were not at all pleased. When they made protests, the reply they got was that the land was no longer theirs, that it was now the white man's.

About this time came officers of the government, and the chiefs and head men met them in council. The white men presented a paper. It said that an agreement had been made between officers of the government and head men of the Sauks and Foxes; that according to the agreement, the people had given up the possession of all the Rock River country, in return for which the government had paid money, sugar, coffee, pork, tobacco, salt, and whiskey; and at the bottom of the paper was signed the names of the men of both sides who made the agreement. The principal man on the side of the government was the head official at Shallow Water (St. Louis); and the principal man on the side of the Sauks and Foxes was Kwaskwami. The agreement had been made in the winter-time.

The whole business came with great surprise upon the chiefs and councillors. The paper made clear one thing: it verified the ugly rumors that had gone from mouth to mouth about Kwaskwami. It was known to all that he had gone to spend the winter near Shallow Water. His object was to be near a trading-post where he could dispose of his pelts as fast as he got them. But it was rumored that he spent much time at the post, and that he hunted little; that he hobnobbed with the big official there, and that he had much money to spend; that he drank a great deal, and was often so drunk that he was absent from his camp for a long period at a time; and that all the while, even up to the time of his departure, he had plenty of food to eat.

Now, all this was very strange, and the people wondered how it had come to pass. Then, as now, they knew they kept tab on the wealth of one another, and it was easy to guess the limit of one's possessions. Moreover, it was particularly easy to guess how much a man like Kwaskwami had. He was just a prominent man of a small group of people who happened to have their camps near by one another. This small band made up the party that went to camp near Shallow Water. It was men in this party who signed the paper with Kwaskwami; and it was the people of this party who spread the gossip about Kwaskwami and his doings at Shallow-Water post. Kwaskwami and the men whose names were on the paper denied ever having touched the pen. They must have lied, or else they were drunk at the time and did not know they had touched the pen.

The chiefs and councillors tried to explain to the officers the position of Kwaskwami,— that the man was not a chief; that he had no power to make a treaty with another nation; that his act was not known before or at the time he did it; that he was not made a delegate to make a treaty on behalf of his people; and that what he did, he did as an individual. They tried to explain to the officers that it was necessary, when a question came up about the cession of land, to let the whole nation know about it; and that when a cession was made, it was necessary first to get the consent of every chief and councillor.

It was of no use to talk about these things. The officers said that the agreement had been made, and that both parties would have to stand by it; that they had come, not to talk about the treaty, but to tell the people to move as soon as possible across to the west bank of the Mississippi.

Naturally the people were loath to leave their old homes; but some had made up their minds to make the best of a bad bargain, and go to the new country. Those most of this

mind were the Foxes. Pawicig was chief of the Foxes then, and he led his people over across the river. With the Foxes went a band of Sauks.

Among the Sauks was a man who had been prominent in council; his name was Keokuk.

Most of the Sauks were not for going, especially men of the younger class. There was at this time among the Sauks a great warrior; he was of the Thunder Clan, and his name Big-Black-Bird-Hawk. The young men rallied about him, and talked to him about holding the old home, even if it meant war with the white man. He was not willing at first, because the number of his Sauk warriors was not big enough for a long, hard fight; and they had few guns and little ammunition, though they all had bows and arrows. He had fought with the English and with the Shawnee Tecumseh, and knew what it was to fight against the government.

In the midst of these events, he was visited by emissaries from other nations,—from the Potawatomes, Kickapoos, Winnebagoes, Omahas, and the Sioux,—all of them offering help to drive back the white man. A prophet among the Potawatomes told of a vision he had of the manitou, by which power came to him to foretell events. He said that the Big-Black-Bird-Hawk was the man to lead the nations and win back the old homes of the people; that when the fight began, speedily would rise the dead to life again, and the warriors would be without number; that back would come the buffalo and the game-folk that had disappeared; and that in a little while the white man would be driven to the eastern ocean and across to the farther shore from whence he came.

In the end the Big-Black-Bird-Hawk was prevailed upon to go to war. No sooner had he begun, when he discovered that he would have to do the fighting with only the warriors

of his own nation and a few others that came from the Kickapoos and Foxes. The chief of the Potawatomes who had urged him so strongly to fight gave the alarm to the white people, and took sides with them as soon as the fighting began. Instead of the Sioux and Omahas coming to his help, they fought against him; and when the Winnebagoes saw how things were going, they joined also with the whites. Indeed, there was little fighting between the Sauks and the white men; most of the fighting was between the Sauks and the other nations. It was the Winnebagoes who made the Big-Black-Bird-Hawk captive. They turned him over to the white men, who carried him away to the east and kept him there a prisoner. After a time he was permitted to return to his people, whom he found living on the west bank of the Mississippi. A short while after he died. Some white men stole his skeleton, and placed it in a great building, where it was on view. The great building caught fire; and it was burned up with the bones of the warrior of the Thunder Clan.

The reason why these other nations took sides with the white man was partly because they were urged to do it; but the main reason was that they now saw a chance for them to get back at the Sauks. But they had occasion to regret what they did. When the war was over, and when the white man knew nothing about it, the Sauks, with the help of the Foxes, went at the various nations; they went at them one at a time. And of them all, the Sioux were the only ones who came back to fight. This war was the last of the wars with the Sioux. They were driven out of the country which the white men call Iowa. Such was how the Sauks and Foxes came into possession of Iowa. It was a right which the government acknowledged when it came to the purchase of the country from the Sauks and Foxes.

## SOME PUBLICATIONS

*John Brown, 1800-1859, A Biography Fifty Years After.* By OSWALD GARRISON VILLARD, A. M., Litt. D. Boston and New York: Houghton Mifflin Company. 1910. Pp. xiv, 738. Portraits, plates. This volume constitutes the most complete and satisfactory biography of John Brown which has thus far appeared. The author devoted many years to the gathering of material, and he has presented the subject in a clear and readable as well as scholarly manner. The writer's attitude is one of impartiality. That is, he avoids undue eulogy on the one hand and unmerited censure on the other. The work is well proportioned and contains much new material, and special commendation is deserved by the copious notes and references and by the extensive index. Iowans will be particularly interested in the pages containing an account of the experiences of Brown and his men at Springdale and Tabor, Iowa.

*The Iowa.* Edited by WILLIAM HARVEY MINER. Cedar Rapids: The Torch Press. 1911. Pp. xiii, 100. Portrait, plate, map. This is the second volume in the series known as *Little Histories of North American Indians*, issued by The Torch Press. After the editor's preface the first forty-five pages are taken up with a reprint of a monograph on the Iowa Indians, by Thomas Foster, which was originally printed in a short-lived publication known as the *Indian Record and Historical Data*. Then follow four appendices devoted respectively to a roster of the Iowa camping circle, the treaties between the Iowa and the United States government from 1815 to 1861, and Iowa synonymy, and a list of the names of some of the more prominent members of the Iowa tribe, excluding half-breeds. A thorough index completes the volume and makes it convenient for reference use. Altogether the book is a valuable addition to the printed material relating to the Indians of Iowa and the Mississippi Valley.

*California Under Spain and Mexico, 1535-1847.* By IRVING BERDINE RICHMAN. Boston and New York: Houghton Mifflin Company. 1911. Pp. xvi, 541. Maps, charts, plans. "The present book, fruit of two years' investigation in California and of much research elsewhere, is designed both for the general reader and for the special student. Its object, first, is to provide, from the original sources, a readable yet concise narrative of the history of California under Spain and Mexico (1535-1847), and second, to equip the narrative with a sufficient apparatus of citation and criticism." The purpose thus stated by Mr. Richman has been amply carried out, for in a sense the volume does for the Spanish period in California what Parkman's works did for the history of the French régime in North America. The author has made a thorough study of the subject and the notes and references, which occupy nearly one hundred and fifty pages, open up a wealth of material that will be a great assistance to other investigators. Furthermore, Mr. Richman has produced a volume which makes fascinating reading as well as being thoroughly scientific and scholarly.

*Autobiography of Charles Clinton Nourse.* Cedar Rapids: Privately printed. 1911. Pp. 235. Portraits, plates. This volume, the publication of which was made possible by the generosity of Mr. Lowell Chamberlain of Des Moines, was issued in a limited edition for the use of the members of the Nourse family. The book contains, as is indicated on the title page, a record of the incidents of more than fifty years practice at the Iowa bar. The book is divided into twenty chapters dealing with such subjects as ancestry and early life, early experiences in Iowa, important law suits, visits to Virginia and Colorado, temperance and prohibition, regulation of railroad rates, Des Moines River land titles, the A. O. U. W. Controversy, the Brown impeachment case, the breeding of short horn cattle, and the B. F. Allen bankruptcy. While Judge Nourse seldom held official position in the State of Iowa he was for many years a prominent figure not only in the legal fraternity, but in political circles as well. Consequently his autobiography is rich with material of interest and value to the student of Iowa history. The volume has been printed and bound in a very attractive manner.

*The Government of Iowa.* By FRANK EDWARD HORACK, A. M., Ph. D. New York: Charles Scribner's Sons. 1911. Pp. xi, 216. Maps. This new text-book of civics is a distinct improvement upon anything that has hitherto been written in connection with Iowa. In the first place it is a departure in style and arrangement from the conventional civics text-book, which consists largely of extracts from the Constitution joined by connective phrases. Professor Horack has avoided this machine-like method and has presented the essential facts of Iowa government in an interesting and logical manner. Furthermore, his book is based upon the results of the latest and most critical researches in the field of Iowa history and politics, and it is strictly up-to-date, including the changes made by the General Assembly at its last session.

The volume contains a number of features not found in other texts on the government of Iowa. The opening chapters are devoted to the early history of Iowa and contain an unusual amount of accurate historical information. A number of maps, printed in several colors, illustrate Indian land cessions, Territorial jurisdictions, State boundaries, and the establishment of counties. An elaborate chart presents in graphic form the main facts concerning the method of appointment, term of office, compensation, and powers and duties of the various administrative officers, boards, and commissions of the State. Many other matters such as taxation, the school system, and social and economic legislation, receive attention in addition to the mere frame-work of the government. Finally, there is an index which in completeness excels the indices usually found in text-books, and makes the volume very convenient for reference purposes.

*The Aborigines of Minnesota. A Report Based on the Collections of Jacob V. Brower, and on the Field Surveys and Notes of Alfred J. Hill and Theodore H. Lewis.* By N. H. WINCHELL. St. Paul: The Minnesota Historical Society. 1911. Pp. xiv, 761. Plates, diagrams. This large folio volume presents one of the most complete surveys of its kind that has been published by a local or State agency in the United States. The first five hundred and fifty pages are devoted to the Dakota Indians, and there are chapters on

the prehistoric races of Minnesota, the mounds and other earth-works in Minnesota, and the implements, ornaments, traditions, customs, history, treaties, missions, and reservations of the Dakota Indians. Then follow a number of chapters dealing with various phases of the life and history of the Ojibway Indians. Among the appendices may be found Brébeuf's account of the Feast of the Dead, a brief description of the battle of Pokegama in 1841, a part of the walam ulum tradition, and a tradition of the Delaware Indians. More than seven hundred half-tone plates, folded inserts, and figures printed in the text, illustrate the volume. One regrettable feature is the inadequacy of the index.

*The Indian Tribes of the Upper Mississippi Valley and Region of the Great Lakes*, Vols. I, II. Edited by EMMA HELEN BLAIR. Cleveland: The Arthur H. Clark Company. 1911 and 1912. Pp. 372, 412. Portraits, plates, maps. No investigator studying the history and customs of the Indian tribes of the upper Mississippi Valley can fail to realize the importance of this work. The greater part of volume one is devoted to Nicolas Perrot's *Memoir on the Manners, Customs, and Religion of the Savages of North America*, now translated into English for the first time. Perrot was the first white man among a number of the western tribes and his knowledge of Indian character, customs, and needs, gained during many years of wandering in the upper Mississippi Valley, made him peculiarly capable of writing the *Mémoire* which gave him his greatest title to fame. Even the French edition of the *Mémoire* is so rare that it has been accessible only to the privileged few. Hence the present translation will be a boon to a great number of students.

The remainder of volume one and approximately one-third of volume two are taken up with a translation of a portion of La Potherie's *History of the Savage Peoples Who Were Allies of New France*, likewise published for the first time in English translation. This work, while less scarce than Perrot's *Mémoire*, has long been recognized as being one of the best French accounts of the Indian tribes.

Besides these two French works, which reveal the relations between the French colonial government and the Indians as well as

the manner and conditions of life among the tribes, there are early American accounts of the western Indians, especially of the Sauks and Foxes. In the first place there is a letter to the Rev. Jedidiah Morse written in November, 1820, by Major Morrell Marston, Commandant at Fort Armstrong. He describes the Sauk and Fox tribes in considerable detail and makes suggestions in regard to trade and official relations with these Indians. Along the same line is a more extended *Account of the Manners and Customs of the Sauk and Fox Nation of Indians*, which is a report sent to William Clark in 1827 by Thomas Forsyth, one of the most successful and experienced Indian agents of the United States government. These two accounts will be especially interesting to Iowa history students, since the Sauks and Foxes have been the most prominent Indian tribes in the annals of this Commonwealth.

Three appendices contain respectively a biographical sketch of Nicolas Perrot; some notes on Indian social organization, mental and moral traits, and religious beliefs, written by leading ethnologists; and a number of letters describing the character and present condition of the Sioux, Potawatomie, and Winnebago tribes. A bibliography and a comprehensive index complete the work. The editing appears to have been done in a painstaking manner and there are copious notes which as a matter of fact, are as valuable as the text to the investigator. Miss Blair deserves much credit for having made accessible these writings, which hitherto have been either unpublished or untranslated into English.

#### AMERICANA

##### GENERAL AND MISCELLANEOUS

*The Assessment of Public Service Corporations* is the title of a paper by Alfred E. Holcomb, which has been printed in pamphlet form.

Two pamphlets issued in October and November, respectively, by the American Association for International Conciliation are: *The Existing Elements of a Constitution of the United States of the World*, by H. La Fontaine; and *The Dawn of World Peace*, by William Howard Taft.

Barthinus L. Wick is the author of a pamphlet entitled *Did the Norsemen Erect the Newport Round Tower*, in which he answers the question in the affirmative.

Dana C. Munro is the writer of an article on *The Cost of Living in the Twelfth Century*, which appears in the *Proceedings of the American Philosophical Society* for September.

Louis Blanc's *Organization of Work*, translated from the first edition by Marie Paula Dickore, is published in volume seven, number one of the *University of Cincinnati Studies*.

Stephen F. Weston is the writer of a folder describing the origin, activities and aims of the *Intercollegiate Peace Association*. An accompanying pamphlet contains the constitution of the Association adopted in 1911.

The Virginia State Library has published a pamphlet entitled *Legislative Reference Lists, 1912*, which contains references to material on practically all of the main topics of social, economic, political, and sanitary legislation.

*An Index Analysis of the Federal Statutes (General and Permanent Laws 1789-1783), Together with a Table of Repeals and Amendments*, prepared by Middleton G. Beaman and A. K. McNamara, is a work of great practical value.

In a pamphlet entitled *Why the Arbitration Treaties Should Stand*, which was published in October by the *World Peace Foundation*, Denys P. Myers answers the objections raised by the United States Senate Committee on Foreign Relations.

In the November issue of the *Journal of the United States Cavalry Association* Joseph W. Rich makes an extended and detailed reply to criticisms of his monograph on *The Battle of Shiloh*, which were made by a reviewer in the July number.

A letter from *Nathaniel Greene to Samuel Adams on American Affairs in 1777* is printed in the September number of the *Bulletin of the New York Public Library*. Continuations of the *List of Works Relating to Criminology* may be found in both the September and October numbers.

*The Report on William Penn Memorial in London: Erected by the Pennsylvania Society in the City of New York*, prepared by Barr Ferree, Secretary of the Society, has been printed in a neat, illustrated booklet of one hundred and ten pages. The memorial was dedicated on July 13, 1911.

*The Proceedings of the Bunker Hill Monument Association at the Annual Meeting, June 17, 1911*, contains, besides the usual reports and lists of officers, committees, and members, the following addresses: *Echoes of Bunker Hill*, by Albert Bushnell Hart; and *John Trumbull, the Painter of the Revolution*, by Samuel Abbott.

The October number of the *American Labor Legislation Review* is devoted to a *Review of Labor Legislation of 1911*, prepared under the direction of John B. Andrews. Here may be found an excellent summary of what has been accomplished in the various States of the Union during the past year along the lines of labor legislation in all its phases.

Among the articles in the October number of the *American Federationist* are the following: *Some Current Labor Topics*, by Samuel Gompers; and *The British Labor Party — A Review*, by A. H. Gill. In the December number may be found: *Root Causes of Labor's Unrest*, by W. Rines; *President Gompers's Report*; and *John Mitchell on Live Trade Union Topics*.

*The Black Friars and the Scottish Universities*, by W. Moir Bruce; *The Reformers and Divorce: A Study on Consistorial Jurisdiction*, by David Baird Smith; *Scotsmen Serving the Swede*, by George A. Sinclair; and *The Hospitallers in Scotland in the Fifteenth Century*, by John Edwards, are articles in the October number of *The Scottish Historical Review*.

With the October number the *Yale Review* begins a new series, which differs from the preceding series in appearance, contents, and publishers. The periodical will no longer be limited to the discussion of social, economic, and political topics, but will contain articles on a wide range of subjects, including scientific questions, the drama, general literature and poetry. Furthermore, the magazine is published by an incorporated association not directly under

the auspices of Yale University. Among the articles in the October number may be mentioned the following: *War*, by William Graham Sumner; *A Living Rate for the Railroads*, by Morrell W. Gaines; and *The Postmaster General*, by Henry Barrett Learned.

Two articles in the November number of the *Journal of the American Institute of Criminal Law and Criminology* are: *The Future Attitude Toward Crime*, by George W. Kirchwey; and *Assassins of Rulers*, by Arthur MacDonald. Then follow reports by various committees of the Institute at its last annual meeting dealing with different problems of criminology.

A recent number of the *University of Toronto Studies* consists of the fifteenth volume of the *Review of Historical Publications Relating to Canada*, edited by George M. Wrong and H. H. Langton. This excellent review covers a large number of publications relative to Canadian history in all its phases, political, social, economic, ecclesiastical, and archaeological, general and local.

In the September number of the *Bulletin of the Pan American Union* may be found much material of historical interest. There are descriptions of *Venezuela's Centenary Celebration* and of *The Celebration of the Centennial of Independence in Paraguay*. Charles Lyon Chandler writes on *The Beginnings of Pan Americanism*; and Louis H. Ayme tells of *Ancient Temples and Cities of the New World*.

The July-September number of *The American Antiquarian and Oriental Journal* contains two articles of western interest. John Andrew Russell presents some *Notes on Prehistoric Discoveries in Wayne County, Michigan*. The authenticity of these same discoveries or relics is disproven by Frederick Starr, J. O. Kinnaman, and James E. Talmadge in an article entitled *The Michigan Archaeological Question Settled*.

*The Arbitration Treaties and the Constitutional Powers of the Senate*, by Henry Cabot Lodge; *The Unnatural and Unchristian Spirit of Prohibition*, by Alton M. Young; *The Problem of Controlling Monopolies*, by William C. McChord; and *Progress Toward Reform in the Administration of Law*, by Ralph W. Breckenridge,

are articles in the October number of *The Editorial Review*. In the December number John Kirby, Jr., discusses labor unions in an article headed, *The Nation's Greatest Peril*. S. A. Thompson writes on *Waterways as Creators of Prosperity*; and Lindon Bates, Jr. discusses *The Taxeaters*.

Among the articles in *The American Journal of Sociology* for September are: *Chicago Housing Conditions, V: South Chicago at the Gates of the Steel Mills*, by Sophonisba P. Breckinridge and Edith Abbott; *The Relation of Fatigue to Industrial Accidents*, by Emory S. Bogardus; and *The Paradox of Immigration*, by Henry Pratt Fairchild. In the November issue may be found *Minimum Wage Boards*, by Mrs. Florence Kelley; and *The First Universal Races Congress*, by Ulysses G. Weatherby.

Benjamin H. Hibbard of the Iowa State College of Agriculture and Mechanic Arts is the writer of an article on *Tenancy in the North Atlantic States*, which appears in *The Quarterly Journal of Economics* for November. Among the notes on current legislation of economic interest are the following brief articles: *The Wisconsin Income Tax*, by K. K. Kennan; *Recent Tax Legislation in Iowa*, by John E. Brindley; and *The Taxation of Intangible Property in Minnesota*, by Wilfred Eldred.

The October number of *The South Atlantic Quarterly* contains the following articles, among others: *Lee After the War*, by Gamaliel Bradford, Jr.; *Force and Right in the Government of the World*, by William P. Few; *The Free Negro in Florida Before 1865*, by David Y. Thomas; *Workmen's Compensation and the Law*, by John Bauer; *The New Amendment to the English Constitution*, by William Thomas Laprade; and *Butler's Relations with Grant and the Army of the James in 1864*, by George M. Wolfson.

*The Boy Scouts of America* by Dan Beard; *The Story of the Civil War Told by Photographs*, by Horatio C. King; *Federalism in Canada and in the United States*, by Albert J. Beveridge; and *Industrial Courts*, by Helen L. Sumner, are among the articles in the October number of *The American Review of Reviews*. In the November number two contributions of especial interest are: *Robert*

*Laird Borden, the New Premier of Canada*, by Agnes C. Laut; and *Panama—the Next Step*, by Forbes Lindsay. Herbert Francis Sherwood discusses *The Ebb and Flow of the Immigration Tide*, and Ida Husted Harper writes on *The World Movement for Woman Suffrage* in the December issue.

Alfred L. P. Dennis presents some *Impressions of British Party Politics, 1909-1911*, in the November number of *The American Political Science Review*. A. N. Holcombe in an article on *Direct Primaries and the Second Ballot* comes to the conclusion that the system of primary nominations cannot be expected to give permanent satisfaction. *Spanish Interests in Morocco* is the subject discussed by George Frederick Andrews; while S. Gale Lowrie outlines some *New Forms of the Initiative and Referendum*.

The following articles appear in the *Columbia Law Review* for November: *The Doctrine of Farrell vs. Lockhart*, by George P. Costigan, Jr.; the second chapter of *The Origin of the Peculiar Duties of Public Service Companies*, by Charles K. Burdick; and the concluding installment of *The Legal Basis of Rate Regulation*, by Edward C. Bailly. In the December number may be found continuations of the first two monographs, together with an article on *Anti-Trust Legislation and Litigation*, by William B. Hornblower.

*Americana* for September opens with an article on *Early Days of Niblo's Garden and Theatre*, by Albert W. Davis. Other contributions are *French Opinion of the American Civil War*, by Lindsay Rogers; *Forts Along the Ohio*, by Delia MacCulloch; and *A Side-light on Conservation*, by D. W. Wood. In the October number, among other articles, are: *P. T. Barnum and Jenny Lind*, by Albert W. Davis; *Was St. Brendan America's First Discoverer*, by Thomas S. Lonergan; and *Lincoln's Last Laugh*, by Dorothy Lamont Teillard.

The December number of *The American Economic Review* opens with a discussion of *The Federal Corporation Tax*, by Maurice H. Robinson. *Cost and Its Significance* is the title of an article by H. J. Davenport. Henry Pratt Fairchild writes on *Immigration and Crises*; and the closing article is a discussion of *Recent Efforts to Advance Freight Rates*, by M. B. Hammond. The remainder of

the *Review*, constituting nearly two hundred pages, is devoted to book reviews and notes on current legislation and events of economic interest.

Among the articles in *The Survey* during the past quarter are the following: *Conference on Labor Legislation*, by Lucile Eaves; and *The Wisconsin Legislation of 1911*, by William M. Leiserson (October 14); *Labor Legislation in New York*, by Paul Kennaday (October 28); *A Man-Made Flood*, by Graham Taylor; and *Jewish Immigrants as Tobacco-Growers and Dairymen*, by Alexander E. Cance (November 4); *Opportunity and the Northwest*, by Francis H. McLean (November 11); *Religion in Social Action*, by Graham Taylor (December 2).

A reprint from the *Proceedings of the Fourteenth Convention of the National Association of State Libraries* contains the *Public Archives Report*, submitted by the Public Archives Committee, of which Dr. A. C. Tilton of Hartford, Connecticut, is Chairman. The report presents an excellent summary of the conditions of the archives in forty States and Territories, including the Philippines and Porto Rico. The requirements for the keeping of all records, State and local, in the Commonwealths of Connecticut and Massachusetts are especially worthy of study and emulation.

The October number of *The Journal of American History*, which is now published by the Frank Allaben Genealogical Company, contains a goodly array of articles. *The Naming of America* is an excellently illustrated discussion. John Denison Champlin writes on *The Tragedy of Anne Hutchinson*. Cuts of old missions and other buildings embellish the account of *Southern California in the Sixties*, by Stephen Farnum Peckham. Other articles are: *The Last Meeting of Lee and Jackson*, by Mary Boyd Fleming; *The Ancestry of President Taft*, by Mabel Thacher Rosemary Washburn; and *Postal Service in the Thirteen Colonies*, by W. Harrison Bayles.

The first thirty pages of the June number of the *Political Science Quarterly* are devoted to *A Local Study of the Race Problem*, by R. P. Brooks. In an article on *Southern Non-Slave-holders in the Election of 1860*, David Y. Thomas endeavors to explain why so

many non-slaveholders voted the radical Breckinridge ticket. *Government by Judiciary*, by L. B. Boudin; and *The Apportionment of State Taxes in Oregon*, by J. H. Gilbert, are other contributions. The September number opens with a discussion of *The Syndication of the Speakership*, by C. R. Atkinson and C. A. Beard. The workings of *The Referendum in Great Britain* are described by Herbert W. Harwill. "People's Rule" in *Municipal Affairs* is the subject discussed by George H. Haynes. Another interesting article is one by R. L. Schuyler on *Polk and the Oregon Compromise of 1846*. A question of current interest is dealt with by E. W. Kemmerer in a study of *The United States Postal Savings Bank*.

*American Produce Exchange Markets* is the general subject of discussion in the September number of *The Annals of the American Academy of Political and Social Science*. The functions of the produce exchanges; the marketing, classification, and inspection of grain; the crop reporting system; governmental regulation of speculation; the produce exchanges in the principal cities of the United States; cotton exchanges; and coffee markets are some of the subjects discussed by various writers. The supplement to this number of the *Annals* is devoted to the *Work of National Consumers' League*. In the November number may be found a series of articles on the general topic of *Commission Government in American Cities*. The volume is divided into four parts devoted respectively to underlying principles and typical plans; problems of Commission Government; objections, limitations and modifications of the Commission Plan; and Results of Commission Government in typical cities. Of especial interest to Iowans is a paper on *Commission Government in Iowa: the Des Moines Plan*, by Benjamin F. Shambaugh. The author reviews the movement leading up to the adoption of the Des Moines Plan, states the essential features of the plan, and points out the results of its operation. There are copious notes and references.

#### WESTERN

*The Common Law and Judicial Legislation* is the subject of an address by Andrew Alexander Bruce, which is printed in the Octo-

ber number of *The Quarterly Journal of the University of North Dakota*. The address was delivered before the North Dakota State Bar Association.

*Ohio Politics During the Civil War Period*, by G. H. Porter, is a recent number of the *Columbia University Studies in History, Economics and Public Law*.

An address by John Lee Webster, President of the Nebraska Historical Society, on *The West: Its Place in American History*, has been printed in pamphlet form.

*The Development of Banking in Oregon* is the title of a brief monograph by James Henry Gilbert, which is published in the September number of the *University of Oregon Bulletin*.

The *Twenty-Seventh Annual Report of the Bureau of American Ethnology*, except for a few pages, is taken up with an extensive, illustrated monograph on *The Omaha Tribe*, by Alice C. Fletcher, and Francis La Flesche, a member of the Omaha tribe.

Two numbers of the *University of California Publications in American Archaeology and Ethnology* published in November are: *The Phonetic Elements of the Northern Paiute Language*, by T. T. Waterman; and *Phonetic Elements of the Mohave Language*, by A. L. Kroeber.

Ellis B. Usher is the writer of a pamphlet of nearly one hundred pages on *The Greenback Movement of 1875-1884 and Wisconsin's Part in It*. He discusses the background of the Greenback movement, outlines the issues of the Greenbackers, and traces the main features of the movement in Wisconsin.

A new series of publications has been inaugurated at the University of California where several series of excellent historical and archaeological monographs have been published for a number of years. The new series, of which the first number appeared in November, is to be known as the *University of California Publications in History*. The first number is devoted to a monograph on *Colonial Opposition to Imperial Authority During the French and Indian War*, by Eugene Irving McCormac. The author first presents a

general view of the subject, and then deals with the opposition in the colonies separately, showing that it was most pronounced in the middle colonies, but especially in Pennsylvania and Maryland.

*The Genteel Tradition in American Philosophy* is the title of an address by George Santayana, which is published in *The University of California Chronicle* for October. *Ship Subsidy* is discussed in an unsigned article. Other articles are: *Some Phases of University Efficiency*, by Alexis F. Lange; *The Revolution in Mexico*, by David P. Barrows; and *Some Aspects of Modern Civic Duty*, by Thomas H. Reed.

A recent number of *The University of Michigan Historical Studies* consists of a volume of three hundred pages devoted to *A History of The President's Cabinet*, by Mary Louise Hinsdale. The volume opens with a discussion of the origin of the Cabinet, proceeds with a sketch of the Cabinet of each President from Washington to Taft, and closes with chapters on the principles of Cabinet making, the Cabinet and Congress, and the Cabinet and the President.

#### IOWANA

In the December number of *Midland Schools* may be found an address by Fred L. Mahannah on *Factors in Rural School Improvement*.

In the *Madrid Register-News* for October 5, 1911, C. L. Lucas corrects a number of errors relative to the famous Lott tragedy in Boone County.

*The Story of Waubonsie — War Chief of the Pottawattamies* is told by Miss Merze Marvin in the issue of the *Sentinel-Post* published at Shenandoah, Iowa, on November 28th.

*The First Spoken Word*, a brief article by R. D. Brook, and a sketch of *Masonic History* are among the contents of the *Quarterly Bulletin of the Iowa Masonic Library* for October.

An extensive monograph on *The Prairies*, by Bohumil Shimek, is published in volume six, number two of the *Bulletin from the Laboratories of Natural History of the State University of Iowa*.

In the issue of *The Winterset Madisonian* for August 31, 1911, may be found a number of letters from former residents of Winterset and Madison County telling of events in the early history of that region.

As *Bulletin No. 2* the Iowa State Board of Education has published the address on *The Greater Outlook*, delivered by Peter S. Grosscup at the fifty-first annual commencement of the State University of Iowa.

*The Gift of the Bottom Dollar: The Apostles of Education in Iowa*, by James L. Hill, is an article in the October number of *The Grinnell Review*, in which may be found some information relative to the famous Iowa Band.

*Express Company Money Orders* is the subject of an address by Charles H. Kelsey, which is printed in *The Northwestern Banker* for October. In the November number there is an address by John V. Farwell on the *Importance of Monetary Reform to Business Men*.

In the October number of *The American Freemason* there is an article *On Neglected and Difficult Points of Masonic History and Chiefly of the Ancient or Jacobite Masonry*, by John Yarker; and a continuation of the symposium on the question *Is Roman Catholicism a Danger?*

The April-June number of the *Iowa Library Bulletin* contains an article on *Library Boards Under the Commission Plan of Government*, by F. F. Dawley. In the July-September number there is a biographical sketch of and tributes to *Captain Johnston, the Friend of Libraries*.

In the issue of *The Catholic Messenger* (Davenport) for October 5, 1911, there is an *Historical Review of Catholicity in Burlington, Iowa*. The account begins with the famous missionary, Father Mazuchelli, and contains mention of Zebulon M. Pike, Bishop Loras, and Father Pelamorgues.

Among the papers in the volume of *Contemporary Club Papers* for the years 1910 and 1911, published by the Contemporary Club of Davenport, Iowa, are the following: *Some Modest Remarks on*

*Socialism*, by George Cram Cook; *Good Old Davenport*, by Edward K. Putnam; *Some Phases of Educational Expansion*, by George Edward Marshall; *Should Railroads Compete*, by Nathaniel French; *Panama Canal*, by Charles Francis; and *Our Future Relations with Mexico*, by Paul Kersch.

President John G. Bowman's inaugural *Convocation Address* at the State University of Iowa is printed in *The Iowa Alumnus* for October. In the November number Theodore A. Waner presents a sketch of *The University and the Civil War*, which includes a roster of the University students who enlisted during the War.

The October number of the *Journal of History*, published at Lamoni by the Reorganized Church of Jesus Christ of Latter Day Saints, opens with a *Biography of Frederick Granger Williams*, by Heman C. Smith. *The Biography of Alexander H. Smith*, by Vida E. Smith, is continued from a previous issue. Some autobiographical material is presented under the heading, *Statement of Elder John R. Evans*. Continuations of the *Autobiography of John L. Bear*; of the *Biography of Elder Joseph F. Burton*, by Emma B. Burton; and of the *Autobiography of Elder Charles Derry*, may also be found.

The publication that was formerly the organ of the League of Iowa Municipalities and was known as *Midland Municipalities*, not only became the organ of the League of American Municipalities with the October number, but also changed its name to *The City Hall — Midland Municipalities*. Besides the proceedings of several meetings and conferences the October number contains an article on *Commission Plan Effect on Public Libraries*, by Alice S. Tyler; and a discussion of *Pella, Iowa, the City of Homes*. In the November number may be found *Two Views of the Commission Plan*, and an article on *The Valuation of Public Utilities*, by Clinton S. Burns.

#### SOME RECENT PUBLICATIONS BY IOWA AUTHORS

Beal, Foster Ellensborough Lacelles,

*Food of the Woodpeckers of the United States*. Washington:  
Government Printing Office. 1911.

- Butler, Ellis Parker,  
*The Adventures of a Suburbanite.* Garden City, N. Y.:  
Doubleday, Page & Co. 1911.
- Byers, S. H. M.,  
*With Fire and Sword.* New York: Neale & Co. 1911.
- Downer, Harry E.,  
*History of Davenport and Scott County, Iowa.* Chicago: S. J.  
Clarke Publishing Co. 1911.
- Flom, George T.,  
*Fragment from R A 58 C. of Konongs Skuggsja.* Urbana:  
University of Illinois. 1911.
- Garland, Hamlin,  
*Victor Ollnee's Discipline.* New York: Harper & Bros. 1911.  
*The Long Trail.* New York: Harper & Bros. 1911.
- Gilson, Roy Rolfe,  
*Ember Light.* New York: Baker & Taylor. 1911.
- Griffith, Helen Sherman,  
*Letty's New Home.* Philadelphia: Penn Publishing Co. 1911.  
*Rosemary for Remembrance.* Philadelphia: Penn Publishing  
Co. 1911.
- Hough, Emerson,  
*The Young Alaskans on the Trail.* New York: Harper & Bros.  
1911.
- Hughes, Rupert,  
*Excuse Me!* New York: H. K. Fly Co. 1911.
- Huntington, Ida M.,  
*The Garden of Heart's Delight.* Chicago: Rand McNally & Co.  
1911.
- Hutchinson, Woods,  
*Exercise and Health.* New York: Outing Publishing Co. 1911.  
*We and Our Children.* Garden City, N. Y.: Doubleday, Page  
& Co. 1911.  
*Handbook of Health.* Boston: Houghton Mifflin Co. 1911.
- Kirkpatrick, Edwin Asbury,  
*The Individual in the Making.* Boston: Houghton Mifflin Co.  
1911.

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- Miller, Emory,  
*Memoirs and Sermons*. Chicago: Jennings & Graham. 1911.
- Nourse, Charles Clinton,  
*Autobiography*. Des Moines: Privately printed. 1911.
- Parker, Leonard F.,  
*History of Poweshiek County, Iowa* (two volumes). Chicago:  
S. J. Clarke Publishing Co. 1911.
- Parrish, Randall,  
*My Lady of Doubt*. Chicago: A. C. McClurg & Co. 1911.
- Richman, Irving B.,  
*History of Muscatine County, Iowa*. Chicago; S. J. Clarke  
Publishing Co. 1911.
- Robbins, Edwin Clyde,  
*The High School Debate Book*. Chicago: A. C. McClurg & Co.  
1911.
- Rogers, Julia Ellen,  
*Wild Animals Every Child Should Know*. Garden City, N. Y.:  
Doubleday, Page & Co. 1911.
- Ross, Edward A.,  
*The Changing Chinese*. New York: Century Co. 1911.
- Russell, Charles Edward,  
*Business the Heart of the Nation*. New York: John Lane Co.  
1911.
- Sabin, Elbridge H.,  
*The Queen of the City of Mirth*. Philadelphia: George W.  
Jacobs & Co. 1911.
- Schell, Edwin A.,  
*Traits of the Twelve*. Chicago: Jennings & Graham. 1911.
- Secor, Eugene,  
*Verses for Little Folks and Others*. Des Moines: Successful  
Farming Co. 1911.
- Shambaugh, Benj. F.,  
*Commission Government in Iowa: The Des Moines Plan*. Iowa  
City: The State Historical Society of Iowa. 1912. Pp. 46.
- Starch, Daniel,  
*Experiments in Educational Psychology*. New York: The  
Macmillan Co. 1911.

Steiner, Edward A.,

*The Broken Wall: Stories of the Mingling Flood.* New York and Chicago: Fleming H. Revell Co. 1911.

Wanerus, Theodore A.,

*History of the Zetagathian Society of the State University of Iowa.* Iowa City: Published by the Zetagathian Society. 1911.

Weeks, Ida Ahlborn,

*The Poems of Ida Ahlborn Weeks.* Newton, Iowa: L. T. Weeks. 1911.

Weeks, Le Roy Titus,

*The Poems of Le Roy Titus Weeks.* Newton, Iowa: L. T. Weeks. 1911.

White, Hervey,

*The Adventures of Young Maverick.* Woodstock, New York: Maverick Press. 1911.

Wick, Barthinius L.,

*Did the Norsemen Erect the Newport Round Tower.* Cedar Rapids: Published by the author. 1911.

Wilkinson, Marguerite O. B.,

*In Vivid Gardens.* Boston: Sherman, French, & Co. 1911.

#### RECENT HISTORICAL ARTICLES IN IOWA NEWSPAPERS

##### *The Register and Leader*

"Tama Jim" Wilson, by Henry Wallace, September 30, 1911.

Dedication of Monument to Mrs. Henry Lott at Stratford, October 1, 1911.

Sketch of Life of Samuel B. Tuttle, Pioneer of Iowa, October 1, 1911.

Sketch of Life of Mayor Daniel Robinson, October 2, 1911.

Big Men of American Railway Systems Who Have been Iowans, October 8, 1911.

Lincoln Memorial at Council Bluffs, October 8, 1911.

L. Roquet — Pioneer Iowa Journalist, October 8, 1911.

Iowa Biography, October 12, 1911.

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Iowa Research by Capable Political Scientists and Historians, October 15, 1911.

Who Built the Mounds in Iowa?, October 15, 1911.

W. H. Ward, Well Known Polk County Pioneer Physician, by L. F. Andrews, October 15, 1911.

The Dodge Battery of Council Bluffs, October 22, 1911.

When Mark Twain was a Boy in Iowa, October 22, 1911.

Sketch of Life of Carroll Wright, October 29, 1911.

Frank B. Tracy and Arthur Wilson, Boston Journalists Born in Iowa, October 29, 1911.

Original Fire Fighters of Des Moines, October 29, 1911.

Sketch of Life of Jeremiah Swift, by L. F. Andrews, October 29, 1911.

General Weaver Revives Recent Political Events, October 30, 1911.

Sketch of Life of Albert Grefe, Sr., November 4, 1911.

V. R. Miller and A. E. Cooper, Aged Iowans who Earned their Success, November 19, 1911.

Career of a Town Marshal During Days of High Excitement, by L. F. Andrews, November 19, 1911.

Youngest Soldiers in the Civil War, November 19, 1911.

When Steamboating was the Rage on the Des Moines River, November 19, 1911.

Retaliation, the Indian Idea of Retribution, by O. H. Mills, November 19, 1911.

Where Iowa has Fallen Down in Anti-Trust Legislation, by U. G. Whitney, November 22, 1911.

Bravery of a Musquakie Indian, November 26, 1911.

The Word "Des Moines"—Keep History Straight, November 28, 1911.

Old Camp McClellan, December 3, 1911.

Some of the Characteristic Things About Iowa's Oldest Fort, by Mrs. Addie B. Billington, December 3, 1911.

How Burlington Came to be Named Burlington, by T. B. Perry, December 3, 1911.

Parker and Douglas Write Contributions to Iowa History, December 3, 1911.

Steamboating Days on the Des Moines River, December 3, 1911.

George W. Copley, an Early Settler, by L. F. Andrews, December 3, 1911.

Mark Straessler — Nearly Half a Century at the Throttle of a Locomotive, December 10, 1911.

Sketch of Life of L. F. Parker, December 13, 1911.

Old Des Moines Landmark Disappears, by L. F. Andrews, December 17, 1911.

Mayor George Alexander of Los Angeles, a Former Resident of Iowa, December 17, 1911.

*The Sioux City Journal*

Homesteading in Sioux City Territory, October 8, 15, and 29, 1911.

The Indian Game of "Ball Play" as Played by the Choctaws in 1832, October 8, 1911.

How Sioux City has Grown in Sixty-two Years, October 18, 1911.

History of Jobbing and Manufacturing in Sioux City, October 18, 1911.

History of the Catholic Church in Sioux City, October 18, 1911.

History of Public Utilities in Sioux City, October 18, 1911.

What the Commission Form of Government has Accomplished for Sioux City, October 18, 1911.

A Sketch of the History and Intent of the Iowa Liquor Dealers' Association, October 18, 1911.

Organization of the Judicial System of Woodbury County and the Men Who Built it Up, October 18, 1911.

Pioneer Stories, by Frank Kelley, November 12, 1911.

The Makeshifts of the Pioneers, November 19, 1911.

Old Man Dean, by Frank Kelley, November 19, 1911.

Rise and Fall of the Capital Investment Company, by Frank Kelley, December 10, 1911.

*The Burlington Hawk-Eye*

In Old Burlington (In each Sunday issue.)

Veterans of the Twenty-fifth Iowa, October 15, 1911.

Lights and Shadows of a Soldier's Life, by Robert J. Burdette, October 29, and November 12, 1911.

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**Story of the Civil War, by W. P. Elliott, November 5, 1911.**

**Who Gave Burlington the Name it Bears, by T. B. Perry, November 19, 1911.**

**Memories and Scenes of a Half Century Ago Revived, by W. P. Elliott, December 3, 1911.**

**Mark Straessler, a Veteran of the Rail, December 3, 1911.**

**Looting in the Army, by H. Heaton, December 10, 1911.**

## HISTORICAL SOCIETIES

### PUBLICATIONS

The October number of *The Medford Historical Register* is devoted to a biographical sketch of *Lucretia Mott*, by Anna D. Hallowell.

The *Proceedings of the Forty-fourth Annual Meeting of the Old Settlers' Association of Johnson County, Iowa*, which have recently been printed, contain considerable information relative to early Iowa settlers.

The fourth number of volume two of the *Publications of the American Academy of Pacific Coast History* is devoted to *The Portola Expedition of 1769-1770: Diary of Miguel Costanso*, edited by Frederick J. Teggart.

Robert F. Gilder describes some *Discoveries Indicating an Unexploited Culture in Eastern Nebraska* in the September-October number of the *Records of the Past*. Hjalmar R. Holand presents some opinions of *The Kensington Rune Stone Abroad*. George Frederick Wright tells of *Glacial Man at Trenton, New Jersey*.

The Society of Colonial Wars of the State of Michigan has published the *Journal of J. L. of Quebec, Merchant*, which is the record of a journey made in 1768 by John Lees from London to Boston, New York, Detroit, Montreal, and various other points in America. The journal is edited by Clarence M. Burton.

The seventh installment of *Selections from the Torrence Papers*, arranged and edited by Isaac Joslin Cox, is printed in the July-September number of the *Quarterly Publication of the Historical and Philosophical Society of Ohio*. The letters here published are taken quite largely from the correspondence of Thomas Sloo, Jr.

The *Seventeenth Biennial Report of the Board of Directors of the Kansas State Historical Society* contains a record of the activi-

ties and progress of the Society during the biennial period from July 1, 1908, to June 30, 1910. It also includes the proceedings of the annual meeting of the Society on December 6, 1910.

The May-August number of the *German American Annals* is taken up with an article on *Die Deutschen Indianas in Kriege für die Union*, by William A. Fritsch; and a continuation of the *Journal of Du Roi the Elder, Lieutenant and Adjutant, in the Service of the Duke of Brunswick, 1776-1777*, translated by Charlotte S. J. Epping.

*William West Richeson: The Kentuckian that Taught Grant*, by Thomas E. Pickett; *Kentucky's Part in the War of 1812*, by Samuel M. Wilson; *Letter of Samuel R. Overton to Waller Overton, Esq.*, written during the War of 1812; and *Kentuckians in the Battle of Lake Erie*, by A. C. Quisenberry, are among the articles in *The Register of the Kentucky State Historical Society* for September.

Charles Wilson Hackett is the author of a monograph on *The Revolt of the Pueblo Indians of New Mexico in 1860*, which appears in the October issue of *The Quarterly of the Texas State Historical Association*. E. W. Winkler writes a brief paper on the *Destruction of Historical Archives of Texas*. Under the heading of *Documents* there is *A Contemporary Account of the San Jacinto Campaign*.

Two articles are to be found in the June-September number of the *Journal of the Presbyterian Historical Society*. Robert Laird Stewart writes on *The Mission of Sheldon Jackson in the Winning of the West*; and Henry Beets discusses *The Old Reformed Churches of Prussia, Germany*. Among the editorials may be found a number of addresses delivered at *The Calvin Quadricentennial* at Geneva, Switzerland, during the summer of 1911.

The *Missouri Historical Review* for October opens with the *M. M. Marmaduke Journal*, edited by F. A. Sampson. M. M. Marmaduke was a member of an expedition from Franklin, Missouri, to Santa Fé in 1824. *Cities that were Promised* is the title of a brief article by F. A. Sampson; while Joab Spencer presents some notes on the *Early History of the Methodist Episcopal Church and of the Methodist Episcopal Church, South, in Saline County, Mo.*

The "Old Northwest" *Genealogical Quarterly* for January and April, which made a belated appearance, contains, besides genealogical material, the following contributions: a sketch of *General Washington as a Land Locator and Dealer*; the argument of Nelson W. Evans relative to *The Washington Claim Before Congress in the Light of the Report of the Committee on Private Land Claims of the 61st Congress*; and a list of *Subscribers to Prince's Annals*.

*Die Deutschen in der Amerikanischen Geschichtschreibung*, by Julius Goebel, is an article which is given first place in the *Deutsch-Amerikanische Geschichtsblätter* for October. *Eine Ehrenrettung des Franz Daniel Pastorius*, and *Die Erinnerung an Emil Rothe*, are topics discussed by H. A. Rattermann. *Anton Caspar Helsing* is the subject of a biographical sketch. Among the remaining contributions is an article on *Quincy's Deutsche in Kriege für die Union*, by Heinrich Bornmann.

The September number of the *Records of the American Catholic Historical Society of Philadelphia* opens with extracts from a number of letters grouped under the heading, *Baltimore Brevities*. The most interesting contribution from a western standpoint is to be found in the *Parish Registers of Prairie du Chien, Galena, and Fever River, 1827-1833*. There is also a brief discussion of the question: *Was Bishop Hughes Offered a Peace Mission to Mexico by President James K. Polk?*

The extract from *The Randolph Manuscript* published in the October number of *The Virginia Magazine of History and Biography* consists of instructions to Governor Lord Howard of Effingham, on February 27, 1688. The history of *Virginia in 1669-1670* is illustrated by a number of documents consisting largely of letters from the correspondence of Sir William Berkeley. A bibliography dealing with *Virginia's Soldiers in the Revolution* is prepared by C. A. Flagg and W. O. Waters.

Two numbers of *The James Sprunt Historical Publications*, published under the direction of *The North Carolina Historical Society*, have recently been issued. One contains a biographical sketch of *Benjamin Sherwood Hedrick*, by J. G. de Roulhac Hamilton. The

other number embraces a sketch of the life of *Bartlett Yancey*, by George A. Anderson; a brief article on *The Political and Professional Career of Bartlett Yancey*, by J. G. de Roulhac Hamilton; and a number of *Letters to Bartlett Yancey*.

*Hooper Warren* is the subject of a biographical sketch by Frank E. Stevens which opens the *Journal of the Illinois State Historical Society* for October. The psychozoic problems of *Prehistoric Illinois* are discussed by J. F. Snyder. *Early Religious Beginnings in Illinois* is the title of an address by Russell F. Thrapp. Richard V. Carpenter describes *Lincoln's First Supreme Court Case*; W. N. McElroy presents a brief sketch of *The Rev. Simon Peter and the Quarterly Conference*; and W. F. Norton discusses *Old Fort Belle Fontaine*.

*The Bells of Paul and Joseph W. Revere*, which consists of a descriptive list of the bells in question prepared by Arthur H. Nichols, is the opening contribution in the *Historical Collections of the Essex Institute* for January, 1912. The continuation of *Salem Town Records* affords additional opportunity for the study of the operation of the government of the New England town. *The Revolutionary Journal of James Stevens of Andover, Mass.* occupies about thirty pages. Sidney Perley contributes the ninth installment of his study of *Marblehead in the Year 1700*.

Isaac F. Nicholson is the writer of an article on *The Maryland Guard Battalion, 1860-61*, which opens the June number of the *Maryland Historical Magazine*. Some documents from the Executive Archives are printed under the heading, *Samuel Chase and the Grand Jury of Baltimore County*. A brief sketch by Francis B. Culver tells of *General Sullivan's Descent upon the British of Staten Island—The Escape of William Wilmot*. Among the other articles are: *Hon. Nicholas Thomas*, by Richard Henry Spencer; and *Washington College, 1783*, by L. Wether Barroll.

William Brooke Rawle is the writer of an article on *Laurel Hill and Some Colonial Dames who Once Lived There*, which is given first place in the October issue of *The Pennsylvania Magazine of History and Biography*. Charles Henry Hart is the editor of some

*Letters from William Franklin to William Strahan.* Among the remaining contributions are: *Orderly Book of the Second Pennsylvania Continental Line*, Col. Henry Bicker, edited by John W. Jordan; and *Five Letters from the Logan Papers in the Historical Society of Pennsylvania*, selected by Miss J. C. Wylie.

W. L. Westermann is the writer of an article on *The Monument of Ancyra*, which appears in the October number of the *American Historical Review*. Albert E. White discusses the *First Concentration of Juries: The Writ of July 21, 1213*. Other contributions are: *The Board of Trade at Work*, by Mary P. Clarke; *Prince Henry of Prussia and the Regency of the United States, 1786*, by Richard Krauel; *The Dred Scott Decision, in the Light of Contemporary Legal Doctrines*, by Edward S. Corwin. Under the heading of *Documents* David W. Parker contributes the *Secret Reports of John Howe, 1808*.

The twentieth number of the *Publications of the American Jewish Historical Society* makes a neat volume of over two hundred pages and contains much valuable material. *Societies for the Promotion of the Study of Jewish History* is the subject discussed by Alexander Marx. *Some Unpublished Correspondence Between Thomas Jefferson and Some American Jews* is contributed by Max J. Kohler. *Hebrew Learning Among the Puritans of New England Prior to 1700*, by D. de Sola Pool; *The Jews of Virginia from the Earliest Times to the Close of the Eighteenth Century*, by Leon Huhner; and *Francisco de Faria, an American Jew, and the Popish Plot*, by Lee M. Friedman, are among the remaining contributions.

The March number of *The Quarterly of the Oregon Historical Society* opens with a paper on *Early Navigation of the Straits of Fuca*, by F. W. Howay. Walter Carleton Woodward contributes a second installment of his study of *The Rise and Early History of Political Parties in Oregon*, this installment dealing with the Territorial Period. Part five of F. G. Young's *Financial History of Oregon* is devoted to treasury administration and budgetary practice. A further installment of Mr. Woodward's monograph is published in the June number of the *Quarterly*. Here may also be

found an article by J. Neilson Barry on *The First-Born on the Oregon Trail*; and *The History of Railway Transportation in the Pacific Northwest*, by F. G. Young.

A number of tributes to the late General Roeliff Brinkerhoff are to be found in the opening pages of the *Ohio Archaeological and Historical Quarterly* for October. The *Celebration of the Surrender of John H. Morgan* is described by George W. Rue. *Early Steamboat Travel on the Ohio River* is the subject of an interesting article by Leslie S. Henshaw. William Z. Davis is the writer of a biographical sketch of *William H. West*. Charles B. Galbreath presents a discussion of *The Battle of Lake Erie in Ballad and History*, in which may be found a list of the killed and wounded on board the ships of the United States squadron, together with the official report of the distribution of the prize money. The final contribution is an article on *Brady's Leap*, by E. O. Randall.

The Carnegie Institution of Washington has published a volume which should prove of great assistance to anyone investigating subjects in the Territorial history of the various States. It is a *Calendar of Papers in Washington Archives Relating to the Territories of the United States (to 1873)*, prepared by David W. Parker. Nine pages, for instance, are devoted to papers, mostly letters, dealing with various problems arising in connection with the government of the Territory of Iowa, from 1838 to 1846. It might be stated, however, that the dates cited by the compiler in a brief prefatory note are at variance with those commonly accepted by Iowa historians. July 4, 1838, and December 28, 1846 (instead of July 3, 1838, and March 3, 1845), are the dates ordinarily cited for the establishment of the Territory and the admission of the State of Iowa, respectively. Furthermore, a number of these papers and documents have been printed, and references to this effect would have enhanced the convenience of the calendar.

Among the papers to be found in the *Annual Report of the American Historical Association for the Year 1909* are the following: *Some Aspects of Postal Extension into the West*, by Julian P. Bretz; *Side Lights on the Missouri Compromise*, by Frank Hey-

wood Hodder; the *Towns of the Pacific Northwest Were not Founded on the Fur Trade*, by Edmond S. Meany; *Morton Mathew McCarver, Frontier City Builder*, by Edmond S. Meany; *The Place of the German Element in American History*, by Julius Goebel; *The Dutch Element in American History*, by H. T. Colenbrander; and *The Dutch Element in the United States*, by Ruth Putnam. In addition to these papers historical workers will find much to interest them in the volume. The *Proceedings of the Sixth Annual Conference of Historical Societies*, reported by Waldo G. Leland, contains a summary of the conditions of the various societies in December, 1909. To the report of the Public Archives Commission there is appended an extensive report on *The Archives of the State of Illinois*, by Clarence W. Alvord and Theodore Calvin Pease; and *A Preliminary Report on the Archives of New Mexico*, by John H. Vaughan. The last two hundred and fifty pages are devoted to the bibliography of *Writings on American History, 1909*, prepared by Grace Gardner Griffin. This valuable reference list has for a number of years been published under various auspices and by various publishers but its preparation has now been definitely assumed by the American Historical Association and it will be printed yearly in the annual report.

#### ACTIVITIES

Dr. Dallas T. Herndon has recently been appointed Secretary of the Arkansas History Commission.

The twenty-seventh annual meeting of the American Historical Association was held at Buffalo, New York, December 27-29, 1911, and at Ithaca, New York, December 30.

The Department of Historical Research of the Carnegie Institution of Washington will direct the greater part of its energies during the year 1912 toward the making of an atlas of the historical geography of the United States.

The midwinter meeting of the Mississippi Valley Historical Association was held at Buffalo, New York, on December 28, 1911. On that morning a joint session was held with the American Historical Association, the papers all relating to frontier problems.

The *First Biennial Report* of the Texas Library and Historical Commission, which was created in 1909, has appeared. Among the documents acquired by the Commission are the papers of President Mirabeau B. Lamar, and a number of letters of Albert T. Burnley, Loan Commissioner of the Republic from 1837 to 1840. The Commission plans to publish a *Texas Archives* series containing important documentary material.

A series of letters from William Kennedy and Captain Charles Elliot to the British government relating to affairs in Texas during the years from 1842-1845 are being copied in the British Public Record Office, and will be published by the Texas State Historical Association in its *Quarterly* during the current year. William Kennedy and Charles Elliot were representatives of Great Britain in Texas during the years indicated, and their letters will be a contribution to the documentary history of Texan diplomacy.

The fifty-ninth annual meeting of the State Historical Society of Wisconsin was held on October 26, 1911. The report of the Secretary, Dr. Reuben Gold Thwaites, indicates that there has been no diminution in the work and progress of the Society during the past year. An appropriation of \$162,000 was secured from the legislature for a new book-stack wing to the building, and thus the congested condition of the library will be relieved. Nearly ten thousand books and pamphlets were added to the library, bringing the total to over three hundred and forty-one thousand. In the museum nearly four thousand specimens were added. Among the activities of the Society has been a series of researches in the various Canadian archives for documents bearing on the history of the Wisconsin fur trade. The principal address at the annual meeting was delivered by Dean Evarts B. Greene on *Some Aspects of Politics in the Middle West, 1860-1872*.

#### DECATUR COUNTY HISTORICAL SOCIETY

The Decatur County (Iowa) Historical Society held its annual meeting at Lamoni on November 28, 1911. The Secretary's report revealed the fact that a creditable addition had been made to the Society's library. The Historian presented a sketch of the early

history of Decatur County. The treasury of the Society was reported in good condition, and it was voted to reduce the annual membership fee from one dollar to fifty cents. The following officers were elected for the ensuing year: Guy P. Arnold, President; Stephen Varga, Vice President; Heman C. Smith, Secretary; F. M. Weld, Treasurer; Duncan Campbell, Historian; J. W. Harvey, Patrick Griffin, J. A. Gunsolley, and Emaline A. Malett, Members of the Board of Directors.

#### THE STATE HISTORICAL SOCIETY OF IOWA

The volume on *The Hollanders in Iowa*, by Mr. Jacob Van der Zee, and Dr. Dan E. Clark's *History of the Elections of United States Senators from Iowa* are ready for the press.

Professor E. H. Downey, of Kenyon College, Gambier, Ohio, Research Associate in the Society, read a paper on *Employers' Liability* before the Iowa State Conference of Charities and Correction at Iowa City in November.

*George Wallace Jones* is a volume in the *Iowa Biographical Series* which is now in press. The volume will contain a biographical sketch by Dr. John C. Parish, and in addition an autobiography and a series of recollections by Senator Jones.

The following persons have recently been elected to membership: Mr. James R. McVicker, Iowa City, Iowa; Mr. John S. Nollen, Lake Forest, Illinois; Mr. Paul J. Pierce, Belmond, Iowa; Mr. Paul W. Black, Plymouth, Illinois; Mr. John C. Hartman, Waterloo, Iowa; Mr. F. H. Paul, Des Moines, Iowa; and Mr. Irving B. Richman, Muscatine, Iowa.

In the November number of the *Annals of the American Academy of Political and Social Science* there is an article by the Superintendent, Dr. Benjamin F. Shambaugh, on *Commission Government in Iowa: The Des Moines Plan*. The article has been reprinted by The State Historical Society of Iowa in the form of a neat pamphlet with a comprehensive index.

Professor Laenas G. Weld, who since 1906 has been a Curator of The State Historical Society of Iowa, resigned during the sum-

mer from his position of Head of the Department of Mathematics in the State University of Iowa, and accepted the presidency of the new Pullman Institution to be established in pursuance of the provisions of the will of the late George M. Pullman.

## NOTES AND COMMENT

The annual convention of the League of Iowa Municipalities was held at Davenport, October 17-19, 1911.

The twenty-second annual meeting of the Iowa Library Association was held at Mason City, October 10-12, 1911.

The League of American Municipalities held its fifteenth annual convention at Atlanta, Georgia, October 4-6, 1911.

The American Political Science Association held its annual meeting at Buffalo and Toronto, December 27-30, 1911.

At the November elections in the State of Ohio delegates were elected to a Constitutional Convention which is to meet in January.

At the present time the commission plan of city government is in operation in one hundred and sixty-one cities in thirty-two States.

One of the most progressive systems of elections in force in America has been provided for New Jersey by a recent act of the legislature known as the Geran Law.

The thirteenth annual meeting of the Iowa State Conference of Charities and Correction was held at Iowa City under the auspices of the State University of Iowa, November 19-21, 1911.

Important laws on the subject of employers' liability and workmen's compensation were enacted in New Hampshire, New Jersey, Ohio, Kansas, Washington, and California, during the legislative sessions of the past year.

On December 15, 1911, historic Starved Rock on the Illinois River, the scene of Indian conflicts and early French exploits, passed into the ownership of the State of Illinois to be made into a State park. A tract of two hundred and ninety acres, embracing the historic site, was purchased by the State at a cost of one hundred and forty-six thousand dollars.

At the last session the legislature of Illinois extended the jurisdiction of the civil service commission over practically all State offices, and established the merit system for the county offices of Cook County and a number of municipal offices in the city of Chicago.

The American Society for Judicial Settlement of International Disputes held its national conference at Cincinnati, Ohio, on November 7 and 8, 1911. Among the speakers were John Hays Hammond, James Brown Scott, Theodore Marburg, and John H. Latané.

Under the auspices of the citizens of Tippecanoe County, Indiana, the one hundredth anniversary of the Battle of Tippecanoe was fittingly celebrated on November 7, 1911. There were exercises on the battle ground, consisting of a military parade, sham battle, music and addresses; as well as a number of addresses in the evening at the Victoria Theater in the city of Lafayette.

"The President's Commission on Economy and Efficiency" is the name applied to the commission provided for by Congress for the purpose of making a thorough investigation of the business organization, activities, and methods of the national government. The members of the commission are Frederick A. Cleveland, W. F. Willoughby, W. W. Warwick, Frank J. Goodnow, and Harvey S. Chase, with Merritt O. Chance as Secretary.

#### PUTNAM HISTORICAL LIBRARY

One of the most valuable collections of western Americana and Iowa to be found in Iowa is the historical library left by the late W. C. Putnam of Davenport to the Davenport Academy of Science. This library, which contains about 1,500 volumes, has recently been installed in a room on the eighth floor of the new fire-proof Putnam building in Davenport, where it was exhibited to a number of people on November 28th. The library will remain in the present quarters until such time as it can be transferred to a fireproof building erected for the Academy of Science. It will be remembered that the late Mr. Putnam left a large sum of money in trust for the Academy.

In the same room with the Putnam Library may be found a number of relics and papers of the pioneer settler, Antoine Le Claire, together with newspapers and valuable documents relating to the early history of Davenport and vicinity. Mr. E. K. Putnam is directing the preparation of a catalogue of the entire collection, which will be open to the public at stated intervals.

LEONARD F. PARKER

Professor Leonard F. Parker died at his home in Grinnell on December 11, 1911. Professor Parker was born August 3, 1825, at China, New York. In 1851 he graduated from Oberlin College and in 1860 he became Principal of Grinnell College, then just opening its doors. He represented Poweshiek County in the lower house of the legislature during the session of the Twelfth General Assembly. In 1870 he accepted a call to a position on the faculty of the State University of Iowa, and here he remained for seventeen years, first as Professor of Greek and Latin, and later as Professor of History, the field of study which had the strongest attractions for him. In 1887 he returned to Grinnell College as Professor of History, retiring from active work in 1898. His influence was strongly felt, however, during his later years in the capacity of professor emeritus. Throughout his life in Iowa, Professor Parker took a keen interest in local history. He was a valued member of The State Historical Society of Iowa, and he was the organizer of the Poweshiek County Historical Society. Shortly before his death there appeared from the press a history of Poweshiek County, written by him. Professor Parker was a beloved teacher and a good citizen.

## **CONTRIBUTOR**

**CLIFFORD POWELL, General Assistant in The State Historical  
Society of Iowa. (See THE IOWA JOURNAL OF HISTORY AND  
POLITICS for January, 1911, p. 149.)**

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## LYNCHINGS IN IOWA

### INTRODUCTION

It is the purpose of this paper to present (1) a brief historical analysis of lynchings in Iowa, and (2) a chronological list of lynchings accomplished by Iowa mobs from 1834 to the present time. While the cases thus presented doubtless do not include every lynching which has occurred within the borders of Iowa it is believed that the list is approximately complete.

Lynch law is a distinctively American phenomenon which seems to have had its origin in the South during the latter part of the eighteenth century.<sup>1</sup> In other countries mobs have frequently gathered and done violence to persons and property, but seldom have these mobs performed correctional functions or administered summary punishment in the manner in which it has often been meted out in the United States under lynch law.

In Iowa, as in other States, there has been an evolution in the meaning of the term lynching. In the early history of the State any extra-legal infliction of punishment or exercise of correctional power which resulted in personal injury to the victims was generally termed a lynching. But in the course of time the term has gradually been limited in the popular mind to cases of summary punishment by hanging until the victim is dead. On account of this change in the meaning of the term lynching it has been necessary to select a definition which is sufficiently comprehensive to be applicable throughout the entire period from 1834 to 1912.

<sup>1</sup> Cutler's *Lynch Law* (1905), p. 39.

A definition which is to be found in a law passed by the legislature of Ohio in 1896 has been chosen. This definition, by which the writer has been governed in his choice of the cases of lynching which are described below, reads as follows:

Any collection of individuals assembled for any unlawful purpose intending to do damage or injury to anyone, or pretending to exercise correctional power over persons by violence, and without authority of law, shall for the purpose of this act be regarded as a "mob", and any act of violence exercised by them upon the body of any person, shall constitute a "lynching".<sup>2</sup>

The principal sources of information from which the facts embodied in this paper have been gathered are Iowa newspapers, histories of Iowa counties, and personal correspondence. The writer searched through approximately all of the existing files of newspapers published in the State from 1834 to 1860, after which time the search was confined largely to the complete files of the *Iowa State Register*, *Burlington Hawk-Eye*, and the *Iowa City Republican*. These newspaper files are to be found in the collections of the Historical Department of Iowa at Des Moines and of The State Historical Society of Iowa at Iowa City, and in the public libraries in various cities in eastern Iowa. Every available county history has been consulted. And finally, the writer has had correspondence with nearly three hundred persons in various parts of Iowa, and this correspondence in many cases furnished information otherwise unobtainable.

The writer is indebted to a great many persons for assistance in the preparation of this paper, and to all such he hereby expresses his grateful acknowledgments. Especially

<sup>2</sup> Cutler's *Lynch Law* (1905), pp. 236, 237, where there is a quotation from 92 *Ohio Laws* 136, and a reference to 93 *Ohio Laws* 161, sections 4426-4 to 4426-14 of the *Revised Statutes*, and 93 *Ohio Laws* 411, sections 5908 of Title I, Part Fourth, *Revised Statutes, Crimes and Offenses*.

is the author indebted to Professor J. L. Gillin of the State University of Iowa and Professor F. I. Herriott of Drake University for advice and encouragement, and to Dr. Dan E. Clark for valuable suggestions in the revision of the manuscript for publication by The State Historical Society of Iowa.

In many instances it was not possible to discover the names of the persons lynched; while frequently only the last name of the victim could be found. Blank spaces have therefore been left in the headings of the various cases in the chronological list to indicate that the names of the victims are not known. Moreover, it was often impossible to determine the exact date of certain lynchings. In fact in a number of instances the date is so uncertain that several cases have been listed somewhat arbitrarily at the beginning of the chronological list.

#### HISTORICAL ANALYSIS OF LYNCHINGS IN IOWA

June 1, 1833, may conveniently be taken as the date for the beginning of any study in Iowa history which has a distinctly sociological bearing. On that day the famous Black Hawk Purchase, comprising a broad strip of land along the eastern border of Iowa, was opened up for white settlement.<sup>3</sup> Immigrants immediately began to pour into the newly opened country by three principal routes: the Ohio River, the Great Lakes, and the overland route. Until the advent of the railroad, however, the Ohio River, with its far-reaching tributaries, was the principal avenue of approach to the Iowa country.<sup>4</sup>

<sup>3</sup> *Census of Iowa*, 1905, p. xix; and Macy's *Institutional Beginnings in a Western State* (*Johns Hopkins University Studies in Historical and Political Science*, Second Series, VII), p. 9.

<sup>4</sup> *Census of Iowa*, 1905, p. xix; Van der Zee's *The Roads and Highways of Territorial Iowa* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. III, No. 2, pp. 175-184; and Hulbert's *Historic Highways of America*, Vol. IX, pp. 9-11.

The early immigrants to Iowa were typical pioneers who left their homes in the East and South in the hope of bettering their economic condition or of escaping social pressure in the more settled regions. They were for the most part men who were accustomed to caring for themselves and protecting their own rights in true frontier fashion. As is well known a large proportion of the early settlers of Iowa came from the South<sup>5</sup> where the physical, economic, social, and judicial conditions had early given rise to the phenomenon of lynching as a method of summary punishment for crime.

The first settlers made their homes along rivers and smaller streams where wood and water were abundant, and they looked upon the open prairie as unfertile and unsuited to human habitation because it bore no trees.<sup>6</sup> But the wooded country was especially adapted to lawlessness and the settlers soon found their communities infested by bands of horse thieves and outlaws. Some method of putting an end to the frequent murders, robberies, and other crimes became imperative and the pioneers were practically forced to take matters into their own hands.<sup>7</sup> From 1821 to 1834 there was no local or Territorial government in the Iowa country. The only laws which were in force were acts of Congress regulating the disposal of the public domain and the relations of the whites with the Indians. There were no courts nor officers of justice.<sup>8</sup>

<sup>5</sup> Salter's *Iowa: The First Free State in the Louisiana Purchase*, pp. 229, 230.

<sup>6</sup> Shimek's *The Prairies* (reprinted from Vol. VI, No. I, of the *Bulletin from the Laboratories of Natural History of the State University of Iowa*), p. 169.

<sup>7</sup> Herriott's *Whence Came the Pioneers of Iowa?* in the *Annals of Iowa* (Third Series), Vol. VII, No. 5, pp. 375-377.

<sup>8</sup> Salter's *Iowa: The First Free State in the Louisiana Purchase*, pp. 124-174; and Price's *The Trial and Execution of Patrick O'Connor at the Dubuque Mines in The Summer of 1834* in the *Annals of Iowa* (First Series), Vols. I-V, No. 12, October, 1865, p. 566.

Thus it is perhaps natural that within one year after the Black Hawk Purchase was opened to settlement there were at least two lynchings in the Iowa country — the famous lynch law trial and hanging of Patrick O'Connor<sup>9</sup> for the murder of George O'Keaf in June, 1834, and the whipping of a man named Wheeler<sup>10</sup> sometime during the spring of the same year. These two methods of lynching — namely, hanging and whipping — have been the two methods most commonly employed by Iowa mobs. The hanging of O'Connor, however, is unique because of the calmness and deliberation which characterized the entire proceeding.

In July, 1834, the settlers west of the Mississippi were placed under the jurisdiction of the Territory of Michigan<sup>11</sup> and two years later the Iowa country became a part of the Territory of Wisconsin.<sup>12</sup> Local government was now established, but it was often weak and ineffective, and the people were still dependent to a great extent upon their vigilant committees and claim associations for protection against desperadoes and for the preservation of order. Consequently there were occasional instances of the administration of summary justice as in the cases of the whipping of William Hoffman<sup>13</sup> for alleged theft in 1834 and the lynching of James Irwin<sup>14</sup> for claim jumping about 1838. The purpose in each case seems to have been to instil into the minds of outlaws and petty criminals the fear of swift and severe retribution for their misdeeds.

The establishment of the Territory of Iowa in 1838<sup>15</sup>

<sup>9</sup> See the case of Patrick O'Connor below, p. 168.

<sup>10</sup> See the case of Wheeler below, p. 167.

<sup>11</sup> *United States Statutes at Large*, Vol. IV, p. 701.

<sup>12</sup> *United States Statutes at Large*, Vol. V, p. 10.

<sup>13</sup> See the case of William Hoffman below, p. 170.

<sup>14</sup> See the case of James Irwin below, p. 171.

<sup>15</sup> *United States Statutes at Large*, Vol. V, pp. 235 ff.

gave to the settlers more adequate local government and more numerous courts and officers of justice. But it also resulted in a rapid and steady increase in population and the number and frequency of lynchings increased accordingly. Counterfeiters and thieves infested the Territory and in numerous instances the inhabitants in various counties took the law into their own hands to rid themselves of the outlaws.

Thus in 1839 or 1840 two counterfeiters<sup>16</sup> were caught and whipped in Johnson County. On March 14, 1840, a man named Cleek<sup>17</sup> was whipped by a mob near Burlington. In the following month there occurred the so-called Bellevue War<sup>18</sup> by which the citizens of Jackson County rid themselves of a well organized gang of horse thieves which had for some time been operating in eastern Iowa and western Illinois. Political quarrels led to violence, as is illustrated by the lynching of William Johnson<sup>19</sup> as the result of a dispute over the laying out of a county seat. Murder and claim jumping also led to mob retribution. In all, there appear to have been approximately eight cases of lynching during the eight years of the existence of the Territory of Iowa.

Iowa was admitted into the Union on December 28, 1846.<sup>20</sup> It would seem natural to expect that with the better organization of both general and local government attendant upon statehood there should result a lessening in the number of lynchings. But this was not the case, especially in the years between 1846 and the beginning of the Civil War. During this period there was an influx of new population

<sup>16</sup> See below, p. 171.

<sup>17</sup> See the case of Cleek below, p. 172.

<sup>18</sup> See the case of John Long *et al.* below, pp. 172-175.

<sup>19</sup> See the case of Col. William Johnson below, p. 175.

<sup>20</sup> *United States Statutes at Large*, Vol. IX, p. 117.

elements which tended to produce unsettled conditions.<sup>21</sup> Thus, at least forty-five lynchings affecting more than seventy victims occurred during these fourteen years, the greatest number happening in 1857, a year of panic and depression. Indeed, the year 1857 witnessed a larger number of lynchings in proportion to population than any other year in the history of Iowa since 1840, the ratio being thirty-seven lynchings to one million of population.

The causes of lynchings during the period from 1846 to 1860 were mainly economic and social in character. The hard times which came to a crisis in 1857 caused people to become more than ordinarily aroused over cases of theft, and as a matter of fact by far the greater number of the lynchings during this period were for horse stealing. The enormity of this crime in the eyes of frontiersmen is largely to be explained by the dependence of the pioneers upon their horses as a means of livelihood and transportation. To deprive a settler of his horses amounted in many cases to rendering him practically unable to earn a living.

Two lynchings stand out clearly in this period because of the boldness of the mobs. In 1857 William B. Thomas,<sup>22</sup> who was being tried for murder at Montezuma, was taken from the court room by a mob in broad daylight and hanged in the woods on the edge of town. Another instance in which the mob exhibited a similar spirit of boldness and recklessness is to be found in the lynching of John Kephart in Jefferson County on July 5, 1860.<sup>23</sup>

During the decade from 1860 to 1870 lynchings naturally continued to be of frequent occurrence. In a majority of cases the causes were political in character, growing out of the questions involved in the Civil War. In the opening

<sup>21</sup> *Census of Iowa*, 1905, p. xxi.

<sup>22</sup> See the case of William B. Thomas below, p. 197.

<sup>23</sup> See the case of John Kephart below, p. 207.

months the war seems to have attracted many of the restless spirits away from the State, with the result that mob violence seldom occurred. But as the war progressed Copperheads were much in evidence in Iowa, and feeling ran high upon the questions at issue between the North and the South. Consequently the expression of views upon the war and the methods of its prosecution frequently led to lynchings.

Since 1870 there has been a gradual decrease in the number of lynchings in Iowa, and although the cases have been fairly well distributed over the period there has been a natural tendency to cluster about the years of panic and depression. Perhaps the most famous lynching during the seventies was the hanging of Charles Howard<sup>24</sup> at Des Moines on December 15, 1874. Howard had been convicted of murder and was awaiting sentence when he was taken from the jail by a mob and hanged. It seems probable that the action of the mob in this case was partly due to the fact that the capital punishment law had been repealed in 1872,<sup>25</sup> and there was a feeling that Howard would not receive the penalty his crime deserved.

In 1883 and 1884 there were several lynchings. The people of certain sections of the State were at this time endeavoring to rid themselves of the "Crooked Creek Gang",<sup>26</sup> and to this end lynch law was frequently employed. It was at this time also that the noted desperadoes, the Barber brothers,<sup>27</sup> were making their raids in Iowa and Illinois, and were finally caught and lynched in Bremer County on June 8, 1883. Two years later came the lynching of the Jellerson murderers, C. B. Jellerson, John A. Smyth, and

<sup>24</sup> See the case of Charles Howard below, p. 229.

<sup>25</sup> *Laws of Iowa*, 1872, pp. 139, 140; 1878, pp. 150-153.

<sup>26</sup> See the case of John Anderson and Frank Brown below, p. 233.

<sup>27</sup> See the case of William and Isaac Barber below, p. 235.

Joel J. Wilson,<sup>28</sup> in which the criminals were seized by a mob and shot in cold blood, much as an infuriated animal would destroy its enemy. No less marked for its exhibition of fury was the lynching of the Rainsbargers<sup>29</sup> in Hardin County during the same year. Both cases indicate an aroused public sentiment, a feeling of dissatisfaction with the delay and uncertainties of judicial proceedings, and a determination to inspire terror among wrongdoers by a few striking examples of sure retribution.

The most prominent lynching in Iowa in recent years was the hanging of James Cullen<sup>30</sup> at Charles City on January 9, 1907. Resentment at the outcome of the famous Busse case was assigned as one of the chief motives which influenced the mob in its action in this instance. The helplessness of the law in dealing with lynchers when public sympathy is strongly with the mob is illustrated in the Cullen affair as well as in the lynching of E. H. Rockwell at Farmington on January 17, 1908, which is the last lynching that has occurred in Iowa.

According to the definition adopted in this paper a total of at least one hundred and sixty-one lynchings involving as many as two hundred and sixteen victims have occurred in Iowa since 1834. Doubtless there are other cases which have not been discovered in the course of this investigation. The number of victims, especially, is only approximate, since in some cases the data failed to furnish the exact number of the victims of a particular lynching. Viewing the period as a whole the lynchings have been very unevenly distributed. A chart by years would show that mob action of this character has tended to occur most frequently during periods of panic and depression.

<sup>28</sup> See the case of Jellerson, Smyth, and Wilson below, p. 240.

<sup>29</sup> See the case of Finley and Emmanuel Rainsbarger below, p. 241.

<sup>30</sup> See the case of James Cullen below, p. 252.

A classification of the kinds or types of lynchings reveals the following types, arranged in the order in which they have most frequently occurred: hanging until dead, whipping, stretching by the neck or thumbs, tarring and feathering, shooting to death, assaulting, banishing, shooting and wounding, egging, putting to death by various means not already mentioned, drowning, and ducking. Thus hanging until dead has been the predominant method of lynching, while whipping has been second in frequency.

The causes of lynchings fall into two classes: direct and indirect. The direct causes include the specific acts of the victim which occasioned the lynching. Thus, a study of the cases of lynchings in Iowa reveals the following direct causes, arranged in the order of the frequency of their operation: horse stealing, murder, theft, claim jumping, rape, adultery, speaking against Lincoln and the Union, copperheadism, timber stealing, seizing of liquor, affinity, speaking against the government, robbery, arson, assault, ill-treatment of family, spying, speaking against established religious ideas, counterfeiting, usurpation of office, informing, incest, keeping a house of ill fame, slander, speaking against Union soldiers, indebtedness, seducing, kidnapping, jealousy, race prejudice, and refusal to support family. This long list of causes would be greatly simplified if a classification based upon legal terms were to be adopted, and it would be found that theft in its various forms has been the most frequent direct cause of lynchings in Iowa.

The indirect causes are less tangible and include such physical, economic, social, political, and judicial conditions as have been especially conducive to lynchings. As has already been suggested a majority of the early settlers of Iowa came from regions where the arm of the law was weak and where summary proceedings by the people themselves was often the only means of bringing criminals to justice

and of preserving order. Consequently when they came to Iowa and found similar conditions prevailing for many years, the settlers drew upon their past experiences, with the result that lynchings frequently occurred.

It would seem, also, that the physical environment of the early settlements in Iowa was potentially favorable to lynching. The pioneers first settled in the woodlands along streams, and a study of lynchings in Iowa reveals the fact that the phenomenon has most frequently occurred in wooded regions. That this is true is due of course largely to the fact that certain crimes, such as theft, are more easily accomplished and hence more prevalent in timbered country. Since theft of one kind or another has been the most common direct cause of lynchings in Iowa, and since the forest furnishes both the cover and the means desired by most lynching mobs, it is natural to find that a large majority of the lynchings in Iowa have occurred in the wooded sections of the State.

Climatic conditions likewise appear to have influenced mob action. A statistical study of lynchings in Iowa according to the time of year in which they occurred reveals the fact that lynchings have been most numerous in the hot months of summer, especially in June and July. It is well known that crimes tend to increase in number with the rise in the temperature, and it is therefore natural that the number of lynchings should vary accordingly. Hot weather seems to produce an irritability which bursts out in violent action at offenses which in cooler seasons would be left to the calmer course of legal procedure for punishment.

Turning from physical environment and the influences of climate, it is evident that economic conditions have in many instances been the indirect causes of lynchings. It has been pointed out that lynchings have occurred most frequently during periods of panic or hard times. At such times theft

is especially apt to lead to mob violence, for the loss of property is more keenly felt than in periods of prosperity.

Moreover, judging from the data secured it would seem that industrial life has had an indirect effect in determining the time of a majority of the lynchings. That is, from a study of the cases it will be found that lynchings have tended to increase in frequency with the advance of the week, the largest number occurring on Saturday. It is possible that the explanation lies in the fact that toward the end of the week people grow weary with the week's labor and are more irritable and more easily excited to violence. Furthermore, the last of the week brings release from toil and on Saturday afternoons and evenings people throng the streets of the towns, thus making the gathering of mobs a comparatively easy matter.

Finally, it may be asserted with reasonable confidence that the effectiveness or ineffectiveness of the judicial system and the enforcement of law during any given period has indirectly affected the number of lynchings. There have been notable exceptions, but in general the frequency of lynchings has gradually decreased as the courts have proven to be increasingly capable of administering the law. In many cases it is quite evident that the delay and uncertainty of judicial proceedings were indirectly responsible for mob action.

A study of the victims of lynchings in Iowa reveals the fact that fully eighty per cent of them may be classed as either professional, instinctive, or occasional criminals. Of the remaining twenty per cent a number were innocent of the crimes or offenses for which they were lynched, while others were lynched for acts or utterances which for some reason aroused the anger of the mob, but which were not criminal in character.

It should be said in this connection that in addition to the

lynchings discussed in this paper data was found concerning nearly seventy unsuccessful attempts at lynchings. These attempts vary in character from slight demonstrations on the part of the mob to the violent expression of determination to accomplish its purpose. The first type is illustrated by a public demonstration against James Madison Kibben of Mt. Pleasant on account of an alleged statement made at the time of the death of Abraham Lincoln. An example of the type at the opposite extreme is to be found in the mob at Indianola on November 12, 1877, which for hours stormed the door of the jail in an attempt to reach Reuben Proctor, who had assaulted and fatally injured Miss Augusta Cading. These unsuccessful attempts, however, illustrate practically the same principles of causation and the same methods which have already been discussed in connection with the lynchings.

In conclusion it may be said that the solution of the problem of lynching is to be found largely through the betterment of the conditions which are conducive to the occurrence of this phenomenon. The disappearance of lynching as a means of punishment for crime will probably be hastened by the abolition of exasperating delays, technicalities, and uncertainties in the operation of the courts. No one remedy can be named that will solve the problem of lynchings, since the causes are many and far reaching. While artificial means may be used to hasten the elimination of lynch law the final solution will lie in the evolution of the character of the people themselves.

#### CASES OF LYNCHINGS IN IOWA CHRONOLOGICALLY ARRANGED

—— *Leek, Dubuque County.*— Some time during the early period of the lead mining at Dubuque a man named Leek stole a large canoe from Thomas McCraney, loaded it with lead, which lay in stacks near the river, and floated it

down the Mississippi to Rock Island where he sold it. The theft was soon discovered and search was made for the offender. He was caught at Rock Island and brought back to Dubuque where he was immediately tried in lynch court. Being found guilty he was sentenced to thirty-nine lashes. The sentence was executed by Sheriff Enoch. During the administration of the punishment the victim was given occasional drinks of brandy. The man was tied securely to a black-jack tree near the present home of Judge Dyer in Dubuque County. After the lynching Leek was sent across the river with the promise of a double punishment if he should ever return.<sup>31</sup>

*Jack Hinter, Polk County.*—Several thefts occurred in the early history of Polk County, and as time went on circumstantial evidence pointed toward Jack Hinter as the offender. He was arrested and brought before the Justice of the Peace, F. R. Prentice, but he was not found guilty. Upon his release, a mob of farmers seized him and took him to Four Mile Township for a trial in lynch court. Here prominent men of the community appeared, some in his defense and others for his prosecution. Those who appeared in his defense soon found that the mob was not reasonable in dealing with Hinter and thereupon they left him to his fate. Those who remained with the victim that night never related what was done, but no one saw Jack Hinter again. Many stories arose as to the manner of his disappearance, but what became of him can not be determined with certainty.<sup>32</sup>

——— *Ecklor, Grundy County.*—Mr. George Nelson “had in his custody at one time years ago a man by the

<sup>31</sup> Langworthy's *Dubuque: Its History, Mines, Indian Legends, etc.* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. VIII, p. 391.

<sup>32</sup> Porter's *Annals of Polk County, Iowa, and City of Des Moines* (1898), pp. 525-529.

name of Ecklor who was taken from him by a mob and lynched. Ecklor would have died had he not received relief."<sup>33</sup>

——— and ———, *Poweshiek County*.— During the time when horse thieves and counterfeitters infested Iowa, probably prior to 1845, "The Fox and Long Gang" had as their resort an old log cabin a few miles north of Montezuma. Rumors that this cabin was used as their resort became so prevalent that the grove surrounding it was named "Bogus Grove". The community felt that the gang was organized and that the only way to rid themselves of the desperadoes was to organize a mob and drive them out. Accordingly a mass meeting was called and as a result one of the gang was caught, "tried by a self-constituted jury, condemned and shot the same day." A short time afterwards another outlaw was captured and shot. This action served to break up the resort and the gang left the country.<sup>34</sup>

——— *Wilcox, Jackson County*.— The Iron Hills Vigilance Committee in Jackson County did a great deal of work in the early days to rid Iowa of lawless bands, and sometimes the infliction of punishment was extended to others than those regularly connected with the outlaws. One man by the name of Wilcox became indecent in his conduct and speech concerning the married women of the community, and for his imprudence he received a visitation of the Vigilance Committee. The committee secured chicken feathers of a boy across the North Fork who hid them near the home of John Hute. After dark on the same day the committee gathered by twos and threes. One party larger than the others had brought Wilcox with them.

<sup>33</sup> Correspondence of the writer.

<sup>34</sup> *The History of Poweshiek County, Iowa* (Union Historical Company, Des Moines, 1880), p. 450.

Wilcox was allowed to plead his case, but all pleas proved unavailing. He was stripped of his clothing by the mob and covered with a good coat of tar and feathers. Thereupon the committee ordered him to leave the country never to return, and then departed, leaving their victim in a sorry plight.<sup>35</sup>

———, *Polk County*.—Horse stealing had been prevalent in Polk County for some time and finally a suspected horse thief was arrested in Mitchellville. Constable Harry Simmons (or Simons) was sent to bring the man to Des Moines, but when he had returned as far as the fair grounds a party of men seized the prisoner, placed a sack over his head and hanged him up to a tree three or four times to induce him to confess to the crime. This had the desired effect and when the mob had obtained the confession they turned the prisoner over again to the constable and departed.<sup>36</sup>

*Lucias H. Seely, Washington County*.—No little stealing of horses and cattle had been carried on in Washington County in the early days and it was generally believed in the community that Lucias H. Seely was at the head of the gang of thieves. One night about nine o'clock a mob caught Seely and took him to the woods near Brighton and shot him to death. The mob action was so secret as to avoid any attempts to punish the participants.<sup>37</sup>

———, *Boone County*.—Parts of Boone County are very rough and covered with timber, and deep gullies open into the Des Moines River. In the early history of the county certain localities along the river became the hiding

<sup>35</sup> Ellis's *More about the Iron Hills Vigilantes* in the *Annals of Jackson County, Iowa*, No. 3, 1906, p. 28.

<sup>36</sup> *Boone Daily News*, Vol. XVI, No. 92, Tuesday, April 19, 1904.

<sup>37</sup> Correspondence of the writer.

places of a band of thieves. One day a miller began the erection of a mill in the vicinity of the gang's quarters, but no sooner had he begun than he received orders to get out of the country. The miller paid little attention to the warning until one day when he was passing along a ravine a bullet from an unseen assailant not only cut off some of his beard, but plowed a furrow in his flesh. He was thus forcibly reminded of the warning and as fast as he could he fled from the country and was not seen in that region again.<sup>38</sup>

———, *Dubuque County*.— A man, whose name is not known, living in Dubuque prior to the establishment of the regular courts, was known in the community as one who frequently beat his wife. One day a mob of citizens caught him and after giving him a good coat of tar and feathers, sent him across the river into Illinois.<sup>39</sup>

——— and ———, *Fremont County*.— Three men were caught in Fremont County with stolen horses. One of them was shot by a citizen, and the other two were tried by a court of farmers in McKissick's<sup>40</sup> Grove and sentenced to be shot. Their graves were dug and the coffins placed near by before the execution of the sentence.<sup>41</sup>

——— *Wheeler, Dubuque County, spring of 1834*.— In the spring of 1834 an insane man was given into the charge of a Mr. Wheeler to be conducted to his father in Missouri. When Wheeler returned a false charge was made against him in which it was claimed that he had betrayed his trust and had appropriated the money raised and given into his

<sup>38</sup> *The Register and Leader* (Des Moines), Vol. LX, No. 52, Sunday, August 22, 1909.

<sup>39</sup> Langworthy's *Dubuque: Its History, Mines, Indian Legends, etc.* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. VIII, p. 392.

<sup>40</sup> Maps of early Iowa differ as to the spelling of this name. One gives it as McKissics Grove while another gives McKissick's Grove.

<sup>41</sup> Correspondence of the writer.

hands for the expenses of the transportation of the insane man. It was also said that he had left the insane man destitute in a wood-yard in Missouri. In a lynch court Wheeler was tarred and feathered and drummed out of town. A few days afterward the citizens of Dubuque received letters of thanks from the insane man's parents, stating that they appreciated the interest taken in his safe return. Wheeler's innocence was established too late, however, as he had left the country.<sup>42</sup>

*Patrick O'Connor, Dubuque County, June 20, 1834.*—Patrick O'Connor<sup>43</sup> was born in County Cork, Ireland, in 1797, and came to the United States in 1826. Arriving in Galena, Illinois, in 1832 he began work in the mines. He had been there only a short time when an accident occurred necessitating the amputation of one leg. This misfortune not only made him an object of charity, but affected him in such a way as to make him very irritable. His morose disposition soon caused his friends to withdraw their charity, and as a result O'Connor became even more morbid. He is said to have set fire to his own cabin in a vain attempt to draw back the sympathies of the people, but he was exposed by John Brophy, a merchant of Galena. O'Connor attempted to secure revenge by shooting at Brophy one evening with the evident intent to kill him, but the bullet missed the mark. Being threatened with lynching in Galena, he fled to the Dubuque mines and went into partnership with George O'Keaf.

On May 19, 1834, O'Keaf went to Dubuque to purchase provisions and returned about two o'clock in the afternoon accompanied by a friend. They found the door locked and when O'Connor was asked to open it he replied that he

<sup>42</sup> Price's *Dubuque in Early Times in the Annals of Iowa* (First Series), Vols. I-V, No. 12, October, 1865, pp. 541, 542.

<sup>43</sup> In some accounts the name is spelled O'Conner.

would when he got ready. O'Keaf tried to break in and was shot by O'Connor. A large mob of miners assembled and found O'Connor insolent. He would have been lynched at once had not some of the leaders persuaded the mob to desist.

O'Connor was taken to Dubuque where he stood trial in a more or less formal manner on May 20, 1834. He was given a chance to defend himself and was allowed to select his counsel and his own jury. Captain Bates was named to defend him, and Woodbury Massey, Hosea L. Camp, John McKensie, Milo H. Prentice, James Smith, Jesse M. Harrison, Thomas McCabe, Nicholas Carrol, John S. Smith, and Antoine Loire, with two others whose names were not found, were named as jurors. O'Connor denied that the mob had the power to try him, but the trial proceeded nevertheless. After a few witnesses had been examined O'Connor was convicted and sentenced to be hanged. This sentence was to be executed on June 20, 1834, at one o'clock in the afternoon.

The jury that tried O'Connor was composed of six Americans, three Irishmen, one Scotchman, one Englishman, and one Frenchman. Probably as many as one thousand people witnessed the trial.

Rumors were circulated to the effect that a mob intended to rescue O'Connor on the day set for his execution. To prevent this preparations were made to have a strong guard at the execution. About one hundred and sixty-three armed men stood guard over O'Connor, with Loring Wheeler as captain, and Ezra Madden, Woodbury Massey, Thomas R. Brasher, John Smith, and Milo H. Prentice as marshals of the day. Two steamers on the river stopped while their occupants witnessed the execution, so the gathering was probably very large.

O'Connor was brought from his confinement, the irons

which had been placed on him after his conviction were broken, and with great ceremony he was driven to the mound of his execution. His grave, coffin, and attire had all been prepared beforehand and as they drove Rev. Fitzmaurice served him in his preparation for death. The prisoner was driven under the gallows, beneath which was his open grave, and with religious ceremony he was executed.

Some practical results were obtained by this lynching. It caused many outlaws to leave the vicinity of Dubuque lest they too might suffer at the hands of a lynch court.<sup>44</sup>

*William Hoffman, Dubuque County, July, 1834.*—Some of the lynchings that occurred at the Dubuque mines were very unjust, little investigation being made relative to the prisoner's guilt. One of those unjustly lynched was William Hoffman, an old soldier of about fifty years of age, who had been accused of appropriating a twenty dollar bank note belonging to his friend. It was in the month of July and when the accusation was made by the supposedly injured man, also an old soldier and a native of Ireland, a large mob gathered near Thomas Brasher's blacksmith shop to settle the matter. Hoffman and his accuser had been friends and one night when the latter was drunk Hoffman had been requested to take care of his money, which he willingly did. When the Irishman became sober he accused Hoffman of keeping the money, which Hoffman denied.

<sup>44</sup> Parvin's *The Early Bar of Iowa* in the *Historical Lectures upon Early Leaders in the Professions of Iowa* (State Historical Society, Iowa City, Iowa, 1894), pp. 71, 72; Sabin's *The Making of Iowa*, pp. 19, 20; Salter's *Iowa: The First Free State in the Louisiana Purchase*, p. 173; Mills's *Story of the Earliest Hanging in Iowa* in *The Register and Leader* (Des Moines), Vol. LXI, No. 86, Sunday, September 25, 1910; Tuttle and Durrie's *An Illustrated History of The State of Iowa* (1876), p. 87; Price's *The Trial and Execution of Patrick O'Conner at the Dubuque Mines in the Summer of 1834* in the *Annals of Iowa* (First Series), Vols. I-V, No. 12, October, 1865, pp. 566-574; and Macy's *Institutional Beginnings in a Western State* in the *Annals of Iowa* (Third Series), Vol. III, Nos. 5 and 6, pp. 323, 324.

The mob took the matter in charge and at first it seemed as though they would attempt to give justice, but proceedings became irregular and finally the mob rushed upon Hoffman, tied him to the wheel of a wagon, and began to lay on the lash. Under such treatment Hoffman fainted, but still the mob was relentless and there were cries of "Give him another five". At this point the accuser found the bank-note and came, begging the mob to cease and telling them that he had found the lost money. Hoffman was loosed by a fellow Kentuckian and he left the community at once. During the infliction of the whipping Hoffman plead with the mob for mercy, telling them that he was a Kentuckian and an old soldier. Since there were many southerners present the plea had its effect and the whipping was less severe.<sup>45</sup>

*James Irwin, Louisa County, about 1838.*—James Irwin, an Irishman, was accused of claim jumping and about 1838 a mob gave him a severe whipping.<sup>46</sup>

——— and ———, *Johnson County, about 1839 or 1840.*—About 1839 or 1840 two men stopped at the Gilbert trading house south of Iowa City, and passed a counterfeit bill for their dinners. They had passed another bill to a man at "Wapsenonac" that same morning. It was soon discovered and search parties went in pursuit. The two men were caught in Washington County and brought back to Judge Harris's house. A long search finally resulted in the discovery of a roll of counterfeit bills in the saddle pads on one of the horses. "Word was sent to all the houses in the settlement, to meet there at a certain hour, 'sharp'. About thirty of the hardy settlers met at the Judge's house, and organized a court. After all the

<sup>45</sup> Price's *Lynch Law at the Dubuque Mines* in the *Annals of Iowa* (First Series), Vol. IX, No. 2, April, 1871, pp. 485-490.

<sup>46</sup> Correspondence of the writer.

evidence was heard, the court decided that the smaller one of the two in whose saddle the money was found, should receive fifteen lashes with the cowhide on the bare back, and the other should receive ten lashes without removing his shirt. Wm. Devault was the man appointed to perform the flagellation, which he did in such a manner that God grant I may never witness another."<sup>47</sup>

——— *Cleek, Des Moines County, March 14, 1840.*— Among the early land-seekers in Des Moines County was a man named Cleek. He came to Burlington in March, 1840, with plenty of money with which to buy land. It became known that he carried a full purse and one night when he was at the notorious Exchange a gang of its frequenters planned to get the money. They suggested to Cleek that they all go up town and play billiards, which was consented to, but instead of stopping at the Tontine, they passed on and before Cleek hardly realized where he was, they had reached the woods outside the town. The gang then accused Cleek of stealing ten dollars from his landlady. They demanded that he confess to the crime and deliver up the money. Cleek denied the charge. One of the gang, Andrew Jackson, who had been his partner in gambling that night, removed Cleek's coat and placed it on a stump some distance away. Cleek was then pushed to a tree where he was tied and whipped with heavy clubs in a vain attempt to induce him to confess. He finally offered his tormentors ten dollars and they allowed him to go free. It is thought that during the whipping or when the coat was taken to the stump, the pockets were rifled, for Cleek was relieved of one hundred dollars that night.<sup>48</sup>

*John Long, Aaron Long, Richard Baxter, Granville*

<sup>47</sup> *History of Johnson County, Iowa* (Iowa City, 1883), pp. 211, 212.

<sup>48</sup> *Hawk-Eye and Iowa Patriot* (Burlington), Vol. I, No. 42, Thursday, March 19, 1840.

*Young, ——— Birch, ——— Chichester, and seven others, Jackson County, April 2, 1840.*— Prior to 1840 Bellevue was the headquarters of a gang of outlaws that gave Iowa, Wisconsin, Illinois, and Missouri much trouble. W. W. Brown is said to have been the leader of the gang at Bellevue. Political rivalry grew up between him and Col. Thomas Cox, a Kentuckian, and in this rivalry can be found the main reasons which brought about the Bellevue war and subsequent lynching.

One event after another came in rapid succession in 1840 to bring on the war. James Mitchell killed James Thompson in January and a little later the contest between the citizens and the gang grew so heated that warrants were made out for the arrest of Brown and his friends by Justice of the Peace Harris, who lived near Fulton. These warrants were given into the hands of Sheriff William A. Warren to execute.

Thomas Cox went about the country raising volunteers to aid in getting rid of the gang and by April 1, 1840, a large mob had collected in Bellevue to witness the arrest of the gang and render assistance, if need be, in getting them out of town. Those who refused Cox's call for aid were declared to be "marked men" and thus it would seem that no little intimidation was employed to collect the mob. When once the farmers were in Bellevue, liquor was brought forth in the store of J. K. Moss and the crowd became unmanageable.

Brown saw the attitude of the people and when Warren came with the warrants he resisted the arrest. Several attempts were made to induce Brown and his gang to surrender peacefully, but Brown knew that the attitude of the mob was against him and he therefore determined to make a desperate fight of it if they persisted in attempting to capture him.

Brown's force was barricaded in Brown's Hotel, and in order to capture it the members of the mob were obliged to arm themselves and move upon the hotel in military fashion. Firing opened when the advance was made by the armed mob and before it ceased four men were killed and seven wounded among the mob, and three killed and several wounded among the gang. Six of the gang escaped and thirteen were captured. Brown was among the dead. It was such a bloody affair that the mob was highly wrought up and those who were captured were in danger of immediate death.

It was finally decided that the mob should disperse and meet again on the following morning at ten o'clock, and that the prisoners should then be given a trial. Accordingly a large number of people collected on April 2, 1840, to witness the proceedings. After a long and heated discussion the question of conviction and punishment was put to the mob. A ballot was taken in which white beans were cast by those in favor of hanging and red beans by those in favor of whipping. When the beans were counted it was found that there were forty-two red and thirty-eight white beans. A motion was then passed to make the vote unanimous in favor of whipping. Accordingly, John Long, Aaron Long, Richard Baxter, Granville Young, —— Birch, —— Chichester, and the seven other prisoners were each given from four to thirty-nine lashes and placed in a boat with provisions for three days and started down the Mississippi. Strict orders were given to them never to return under penalty of death.

In the spring term of the district court the acts of the mob were investigated and it was declared that the Bellevue war was legal, but that the lynching which followed was illegal. Moral support, however, was given to the lynching and nothing was ever done to the participants. Many of the

men who were in the mob afterwards became prominent in the State.<sup>49</sup>

———, *Johnson County, September 4, 1841.*—  
 “Lynching has become so frequent of late throughout the country that on Saturday night last four or five ruffians applied the law to an unoffending individual, who, through some means became indebted, and this method was resorted to, to obtain their dues. He was beaten and drubbed in a shameful manner. Such conduct should never be tolerated in a civilized community. Those implicated were brought to justice and tried; all of whom obtained the required security to appear at the next term of the District Court.”<sup>50</sup>

*William Johnson, Jackson County, March, 1843.*— Even after the Bellevue war Brown’s Hotel in Bellevue was frequented by reckless characters among whom was William Bennett. About 1843 Bennett began to plan towns in the new country and met with competition in Colonel William Johnson who came from Canada that same year. Jealousy and animosity developed between Bennett and Johnson over the fact that they both wanted to lay out a county seat in the same place. The place decided upon for the site of the town is the present location of Quasqueton. Bennett gathered a gang of his friends together, and going to Johnson’s

<sup>49</sup> Snyder’s *History of Jackson County, Iowa* in the *Annals of Iowa* (First Series), Vol. VII, No. 2, April, 1869, pp. 187-190; *The History of Jackson County, Iowa* (Western Historical Company, Chicago, 1879), pp. 356-403; Ellis’s *Another Old Pioneer Gives Something of Interest* in the *Annals of Jackson County, Iowa*, No. 2, 1906, pp. 77-84; Reid’s *The Bellevue War—A Review* in the *Annals of Jackson County, Iowa*, No. 2, 1906, pp. 84-92; Ellis’s *A. H. Wilson on the Bellevue War* in the *Annals of Jackson County, Iowa*, No. 2, 1906, pp. 95, 96; Seeley’s (Farmer Buckhorn’s) *The Country’s Territorial Pioneers: Shadarac Burleson and Some of the Incidents of His Life* in the *Annals of Jackson County, Iowa*, No. 2, 1906, pp. 51-76; Reid’s *Thomas Cox*, pp. 122-167; Gue’s *History of Iowa*, Vol. I, pp. 331-335; *Hawk-Eye and Iowa Patriot* (Burlington), Vol. I, No. 45, Thursday, April 9, 1840; and *The History of Polk County, Iowa* (Union Historical Company, Des Moines, 1880), p. 147.

<sup>50</sup> *The Iowa City Standard*, Vol. I, No. 41, Friday, September 10, 1841.

home proceeded to lynch him. His possessions were loaded on a wagon and he was taken to the woods, tied to a tree and given a good flogging. He was then ordered out of the country.

Johnson swore out warrants for the arrest of Bennett, and in an attempt to resist the arrest Bennett and his gang were driven out into the prairie. As a result they were badly frozen and a number even lost their lives.

Johnson was forced to leave Jackson County, and he fled to Mahaska County where he was killed as a result of trouble which arose over the marriage of his daughter. Some writers, however, think that there is a possibility that Bennett and his gang followed Johnson and killed him, leaving the impression that the murder was a result of the trouble arising between him and his son-in-law.<sup>51</sup>

——— *Brown and Harrison Haines, Johnson County, May 1, 1843.*—The citizens of Iowa City and vicinity experienced a great deal of inconvenience on account of petty thefts which occurred in the winter of 1842-1843. Finally a mulatto named Brown was arrested and after some time a confession was forced from him which implicated a man named Haines. A scheme was arranged by which it was hoped that a confession could also be extracted from Haines. Brown had a white woman as a wife and she was persuaded that if she would aid in securing a confession from Haines it would aid Brown, her husband, in getting out of the affair. It was planned that Haines should be brought to Mrs. Brown's home on pretense of aiding Brown to escape. In the meantime a gang of men consisting of John B. Adams, Samuel C. Trowbridge, Dr. Henry, St. G. Coe, and Malcom Murray, brought Brown from the jail, having made an agreement with the sheriff, Walter Butler, and the jailor,

<sup>51</sup> *The History of Jackson County, Iowa* (Western Historical Company, Chicago, 1879), pp. 368-371.

Elisha Pierson, to feign they were asleep while they took the prisoner.

When Brown was brought home he was put in a room to await the arrival of Haines. Haines was then sent for, while Adams and Trowbridge secreted themselves under the bed. The others remained in the adjoining room. When Haines arrived Brown played his part well, telling Haines he wanted to get out of the country and he needed some money. Brown suggested that Haines get some money for him from the gang which had helped in the stealing that they had done not long since. Haines promised to do so, confessing also that he had sold some of the stolen meat, but was out of money at that time.

At this point the men under the bed seized Haines and took him to jail. Both Brown and Haines broke jail later, and the rest of the gang, including a brother of Haines called "Horse Haines", a man named Guyton, and one other, fled from the country when they heard of the evidence against them.<sup>52</sup>

——— *Walsworth, Lee County, 1846.*— About 1846 Mr. Walsworth and Mr. Melancthon Knight were the proprietors of a wharf-boat at Montrose. After a time a disagreement arose between them. One morning a trail of blood was found leading from the front door of a certain barroom to the outer guard on the river side of the boat. Knight was missing and his hat was found in the blood behind the bar. Suspicion fell upon Walsworth at once, and a cry was set up to hang him. At four o'clock that afternoon when a packet came from St. Louis, a young fellow from Rat Row, Keokuk, with a reputation for lying, got off and told the people that he had seen Melancthon Knight floating down the river hatless. Thereupon the excitement grew intense.

<sup>52</sup> *History of Johnson County, Iowa* (Iowa City, 1883), pp. 213-215.

Dan Hine, Charlie Moore, and others threatened to whip the informant if he did not give a true story about the affair. He then denied having seen Knight. Being dissatisfied, however, John Knight and James Mackley boarded the boat, journeyed down the river, and after some search found Knight in the Jefferson Barracks at St. Louis. They returned to Lee County just in time to save Walsworth's life, for the mob had him out under a tree with a rope around his neck and over a limb of the tree. Upon the receipt of the news of the discovery of Knight, however, the mob dispersed.<sup>53</sup>

*L. J. Smith and ——— Frisby, Keokuk County, about 1845 or 1846.*— Sometime about 1845 or 1846 two men, L. J. Smith and a man named Frisby, were accused of preëmpting claims in Keokuk County. A lynch jury convicted them and sentenced them to be tied to a pole and ducked to the bottom of a mill pond through a hole in the ice and then taken out and given a coat of warm tar and feathers. After this treatment they were to leave the Territory forever. On the way to the pond Frisby attempted to kill himself by sticking a long dirk into his body. The mob then lightened Smith's sentence, and gave him only the tar and feathers. That night Smith had his head shaved and thereupon he departed for Missouri.<sup>54</sup>

*Jacob Majors, Marion County, July, 1848.*— Throughout the early history of Mahaska County there was much trouble over claims. In order to protect themselves the settlers formed a "Mutual Protection Association". Jacob Majors, one of the early settlers, was in a good financial condition and did not deem it necessary to join the association. He

<sup>53</sup> Kay's *Way Back Sketches in The Burlington Hawk-Eye*, Sunday, March 29, 1891.

<sup>54</sup> Correspondence of the writer.

is said to have entered the claims of three of his neighbors and to have refused to arbitrate with the association. The association met and decided to coerce him. They went to his home and not finding him they encamped on the land to await his return. Word was sent to Oskaloosa, where he was, for him to return, but he refused to do this until finally the mob burned his barn. Upon his arrival on the scene he promised to deed the land over to the first claimants. Time elapsed and the association was not satisfied so they planned to capture Majors at Durham's Ford. Accordingly one Monday a mob of about two hundred men caught him. A neighbor named Van Dalaskmutt went his security and the land was deeded back.

After all this Jacob Majors foolishly sought revenge. He caused warrants of arrest to be sworn out for John Gillispie, L. C. Conrey, and others on July 6, 1848. These warrants were never served, but the association caught Majors again at his sawmill and took him to Knoxville in Marion County. At Knoxville other members of the association met the gang that had captured him, and they took him about a mile north of town and gave him a coat of tar and feathers on his naked body. His clothes were then put on and another coat of tar and feathers was added. In this plight he was allowed to return home, with orders never to attempt to revenge himself again. Soon after this affair the Majors family moved to Missouri.<sup>55</sup>

*John Hamlin and Nathaniel Hamlin, Jasper County, 1848.* — During the days of the claim association in Jasper County a man named Nisely came from Missouri and took up a claim near the residence of a family named Hamlin. Nisely<sup>56</sup> boarded a part of the time at the Hamlin home.

<sup>55</sup> Garden's *History of Scott Township, Mahaska County, Iowa* (1907), pp. 44-49; and correspondence and interviews of the writer with old settlers.

<sup>56</sup> One authority spells the name Knisely.

Trouble arose between them and one day when Nisely suddenly disappeared the Hamlins were suspected. This suspicion was strengthened by the appearance of John Hamlin wearing a coat and hat belonging to Nisely. When asked where Nisely had gone or what had become of him Hamlin could not give a satisfactory explanation, nor could he explain how he had come into possession of the coat. These facts, together with other incidents, caused the people of the community to suspect that the Hamlin boys had secretly disposed of Nisely. Confessions were extracted from them which caused the arrest of three of the boys. John Hamlin had been hanged up by the neck to induce him to confess, while stretching by the thumbs had been used on Nathaniel. The lash was applied after he had been stretched up by the thumbs and when they had finished the blood ran down his back to the ground. Some little trouble arose concerning the trial of these men, but after a time a fairly regular trial was secured. In the midst of it, however, Nisely was found in Missouri and the prisoners were discharged.<sup>57</sup>

*John Wilson, Linn County, July 21, 1849.*—“A somewhat notorious scamp, by the name of John Wilson, has been strongly suspected of being engaged in this business [horse stealing], and is thought to have been the identical fellow who stole two horses in Linn county, and sold them at Cascade a short time since.

“On Saturday last, Wilson was found dead on the prairie, in Linn county, with such wounds about him as indicated pretty strongly that he came to his end by the intervention of those who considered forbearance no longer a public

<sup>57</sup> Eastman's *A Foul Murder and Nobody Killed* in the *Annals of Iowa* (First Series), Vol. IX, No. 3, July, 1871, pp. 593-599; *The History of Polk County, Iowa* (Union Historical Company, Des Moines, 1880), pp. 519, 520; Porter's *Annals of Polk County, Iowa, and City of Des Moines* (1898), pp. 511, 512; and correspondence of the writer.

virtue. Wilson had on his person some \$30 of good money, besides a lot of counterfeit."<sup>58</sup>

——— *Jacques and* ——— *Jacques, Clinton County, 1851.*  
— A family named Jacques, living near Comanche in Clinton County, fell under the suspicion of the Regulators because they had kept so many fine horses about the place. In order to get a clue as to their guilt Constable Robert Welsh and Capt. R. A. Lyons of Elvira laid a plan to frighten the Jacques women into a confession. Accordingly when evening came on and the women were milking, Welsh came up and engaged them in conversation until dark, while Lyons stole into the house and hid himself in a bed so that he could witness any conversation in the room. After the chores were finished Welsh came to the house and continued his conversation about the gang and finally by midnight he had drawn the whole story from the women. The two men made their escape from the house and followed the trail of one of the Jacques. Mr. Cannon and his son joined them and Jacques was overtaken. He was taken to Swan Island, below the city of Comanche, and stretched up by the neck for a time until he, too, was induced to tell the whole story of the gang. He was later tried, convicted, and sent to the penitentiary. This warning was not sufficient, however, so the Regulators caught another member of the Jacques family at a dance in Dubuque and brought him by way of Maquoketa to Clinton County where, in a grove near Welton, he was forced to make a confession. The evidence given by these two men resulted in the routing of a large gang of robbers at Farmersburg. A considerable amount of booty was recovered, but none of the gang was caught.<sup>59</sup>

<sup>58</sup> *The Miners' Express* (Dubuque), Vol. VIII, No. 47, Wednesday, July 25, 1849.

<sup>59</sup> *The History of Clinton County, Iowa* (Western Historical Company, Chicago, 1879), pp. 437-439.

*Alfred Moore, Benton County, August 8, 1851.*— In 1851 Alfred Moore came to Benton County and being eager to gain possession of a large amount of land he entered the claims of S. K. Parker, L. D. Bordwell, and Joseph Strawn. The citizens decided to discipline him. Accordingly two men called upon Moore during the night of August 8th and requested that he show them the way to a certain place. Moore was thus entrapped by the citizens and when a little way from his home he was seized and tied to a tree. His clothing was removed and he was given a good whipping, then tarred and feathered, and ordered to produce the papers necessary to return the claims to the first squatters. Daniel Richie and Ed. Johnson were the men who administered the whipping. John Hollenbeck, Daniel Richie, and Orson Bogle were tried for assault and battery. Bogle was tried first and not being present at the whipping was soon acquitted. This seemed to discourage Moore and he left the country, probably fearing that he might meet with further violence from those whom he had attempted to prosecute.<sup>60</sup>

*Baltimore Muir, Pottawattamie County, May 17, 1853.*— In the early part of May, 1853, an immigrant train encamped at Council Bluffs on the south side of what is now Broadway at Glendale. On the morning of the twelfth of May a man named Samuels was found dead in his wagon. Baltimore Muir was known to have traveled with him and when Muir was not found in the train of immigrants, suspicion at once rested upon him. Search parties were sent out and a little later Muir was found on the trail that led to Mosquito Creek through the woods in the direction of the home of D. B. Clark. Some of the accounts say that Muir was placed in the hands of the officers of the law, but an eye-

<sup>60</sup> *The History of Benton County, Iowa* (Western Historical Company, Chicago, 1878), pp. 349, 350.

witness of the lynching declares that the officers of the law had nothing to do with the affair.

A lynch court was organized and Muir was tried, convicted, and sentenced to be hanged. A. C. Ford defended the prisoner while Rev. Moses Shinn acted as his religious counsellor. Shinn obtained a confession of guilt from him, but he was unable to ascertain where Muir had placed the money which had been taken from Samuels, and for which the murder had been committed. Accordingly Muir was hanged.

In 1875 the authorities of Council Bluffs were opening up a street on what was the old D. B. Clark trail and near an old tree \$350 in gold was found. This was the same amount that Samuels had on his person when he was murdered, and evidently was the money which cost him his life.<sup>61</sup>

*George Redmon, Boone County, December, 1855.*— In December, 1855, Richard Green of Boone County sold his interest in a mill for \$180. This money he placed in a bag that hung on the wall of his house. One Sunday about Christmas time Mr. Green and his wife went to visit a neighbor. While they were away George Redmon came and finding only the children at home inquired of them what Mr. Green had done with the money that he had secured from the sale of the mill, and received the reply that they did not know. When Mr. Green returned he found that the money was gone, and upon making inquiries as to who had been there in his absence the children told him that George Redmon had come, but that they did not see him molest the bag on the wall.

Green called in six of his neighbors and after a short consultation a plan of recovering the money was decided upon.

<sup>61</sup> *History of Pottawattamie County, Iowa* (O. L. Baskin & Co., Chicago, 1883), pp. 102, 103; and correspondence of the writer.

The leader went to Redmon's home and persuaded him to go and have a drink at a cabin where liquor was sold. After drinking, and purchasing some liquor to take with them, they started home again. The road led through a belt of timber. Redmon had enough spirits in him to make him boastful, and just as he was telling his comrade how he could fight a dozen Indians, the other five men who had masked themselves for the occasion jumped out and captured Redmon. After a short chase they allowed his companion to get away. In a little while he returned masked as the others and they tied Redmon to a tree and demanded that he confess where the money had been placed. He denied having stolen it. The mob then whipped him until he said that if they would cease he would get the money. He was loosed, but when he had gone about a hundred yards he denied again that he had stolen the money. He was taken back to the tree and whipped until he again consented to produce the money, but later he again denied it. It was therefore necessary to administer the third whipping before he would finally agree to get the money. It took all night to extract the place of concealment from him and as a result Redmon was badly bruised. He was taken to the place of concealment and after he had dug up the money, he was ordered out of the country with strict instructions not to return.<sup>62</sup>

*Charles Clute, Cedar County, 1856.*— Charles Clute had been employed by a Mrs. J. D. Denison, a widow, to attend to her business on a farm nine miles northeast of Tipton. Mrs. Denison married J. A. Warner later and the two men worked together on the farm. A peddler named Johnson who had a previous acquaintance with the family came in the winter of 1856 with a team of good horses which he left

<sup>62</sup> Lucas's *Boone County's First Theft* in the *Madrid Register-News*, Vol. XXV, No. 49, Thursday, July 18, 1907.

to be sold by them. Johnson was arrested some time afterwards on the charge of horse stealing and taken to Wisconsin for trial. No evidence could be brought against him to convict him and he was released. The neighbors of Clute became suspicious of him and took him from the house one night and gave him a good whipping in the woods. This affair occurred after Clute had been arrested on the charge of being an accomplice of Johnson, but had been released for lack of evidence.<sup>63</sup>

———, *Louisa County, February 9, 1856.*—An assault upon two school girls near Muscatine in February, 1856, caused great indignation. A sufficient description was given to identify the perpetrators of the crime, and on the following Sunday, February 9, 1856, one of the men was discovered at dinner in the United States Hotel at Columbus City, Louisa County. When he had finished his meal and the patrons of the hotel had gathered about the counter, the proprietor tapped the man on the shoulder and called him behind the counter, apparently for a private word with him, but instead he drew out a buggy whip and after telling the crowd of the assault upon the girls and stating that this was one of the men, he gave him a severe whipping. The victim plead for mercy, but obtained none as the crowd in the hotel gave silent consent to the proceeding.<sup>64</sup>

*William Davis, Lucas County, August, 1856.*—Trouble arose in Otter Creek Township between Alexander Lamb on the one hand, and William Davis and David Ragin on the other. Soon after this breach of friendly relations the barn of Alexander Lamb was burned and suspicion rested upon

<sup>63</sup> *The History of Cedar County with a History of Iowa* (Historical Publishing Company, Chicago and Cedar Rapids, 1901), pp. 363, 364; and Gue's *History of Iowa*, Vol. I, p. 343.

<sup>64</sup> *Muscatine Daily Journal* (New Series), Vol. I, No. 25, Thursday, February 14, 1856.

Davis and Ragin. Davis's stock had caused Lamb much trouble previous to this time and was one of the causes of the breach of friendship.

One night in August, 1856, a mob of indignant farmers gathered at the home of Davis, where Ragin was also staying, with the intention of lynching them both. Ragin made his escape, shooting as he went, but Davis faced the mob and declared his innocence. They took him out and gave him a good whipping and the scars made by the mob remained with him as long as he lived.

Davis caused the arrest of Alexander and Reuben Lamb, John and Littleton Young, Solomon Carmichael, Riley Moore, Oliver Harvey, John Ruble, Joel Carter, William Pennington, George Frazier, Franklin Bengé, William Bayles, Jonathan Curtis, James Woodward, John Wells, Jonathan Dix, James Aaron, and Daniel Nyswanger on the charge of participation in this lynching. The preliminary hearing was held before Justice B. P. Hartley on Sunday, May 3, 1857, and he bound fifteen of the men over to appear at the next session of the grand jury. Accordingly, in June they were brought up before a jury of which A. H. Dunlap was foreman, but they were discharged for want of sufficient evidence.<sup>65</sup>

———, *Dubuque County, August 9, 1856.*—A peaceable merchant remarked on the streets of Dubuque on August 9, 1856, that he considered "a negro as good as himself, or as an Irishman, if he behaved himself" and for his outspoken sentiments he received a slug shot and doubtless would have been killed had not the police come to his rescue.<sup>66</sup>

<sup>65</sup> *The History of Lucas County, Iowa* (State Historical Company, Des Moines, 1881), pp. 569-571; and correspondence of the writer.

<sup>66</sup> *Muscatine Daily Journal*, Vol. II, No. 21, Saturday, August 9, 1856.

*Alexander Gifford*,<sup>87</sup> *Jackson County, April 11, 1857.*—Among the early settlers of Jackson County were Henry Garrett and David McDonald, both of whom came from New York. It seems that both of these men were connected with some murder in New York and desired to hide their identity. John Engles also came from New York soon after their arrival and he seemed to know about the affair. In order to get rid of this witness against them they hired Alexander Gifford to murder Engles, which he did on March 27, 1857, while the two men were out hunting together. Evidence was found that caused the arrest of Gifford and he was placed in the jail at Andrew.

This was the fifteenth murder which had occurred in Jackson County in its short history and in not a single case had there been a conviction of the offender. The people were aroused and on April 11, 1857, a mob went to the jail at Andrew, broke open the doors and took Gifford out. He was taken to a tree in the north part of town and given a chance to confess. The mob promised him a fair trial if he would make a complete confession. After making a confession stating that he had been hired to do the deed the mob grew furious and broke its promise, and in a few minutes Gifford hung lifeless to the tree. There is little doubt but that the Iron Hills Vigilance Committee did the lynching. One account, however, accuses the citizens of Bellevue of committing the deed.<sup>88</sup>

*Boyd Wilkinson, Johnson County, May 11, 1857.*—Boyd Wilkinson, who resided south of Iowa City on the farm of Philip Clark, disappeared suddenly in 1857, and as no one

<sup>87</sup> Some authorities give Grifford as the spelling.

<sup>88</sup> *Des Moines Valley Whig* (Keokuk), Vol. XI, No. 34, Wednesday, April 22, 1857; *Muscatine Daily Journal*, Vol. II, No. 254, Saturday, May 30, 1857; Gue's *History of Iowa*, Vol. I, pp. 336, 337; *The History of Jackson County, Iowa* (Western Historical Company, Chicago, 1879), p. 405; and *Annals of Jackson County, Iowa*, No. 1, 1905, pp. 29-34; No. 3, 1906, pp. 68-75.

knew where he had gone people generally believed that he had been murdered. After some time he unexpectedly reappeared in Iowa City and found that Philip Clark had made unnecessary overtures in regard to his property. The two men quarreled and when Clark's barn burned the neighbors thought that Wilkinson had been the cause. Realizing that he would be in danger, Wilkinson sought the protection of the officers in Iowa City, but obtained no support.

A mob, supposedly composed of Clark's friends, met at the Mansion House in Iowa City and after parleying and organizing, proceeded to the home of Wilkinson. At first Wilkinson could not be found, but finally after his wife had secured from the mob the promise of a legal trial, she divulged his hiding place. Wilkinson was taken from the cellar and placed in a wagon with his hands tied behind his back.

The accounts do not agree as to the events which followed. At any rate when the wagon was going along the river bank Wilkinson was drowned. Whether he jumped into the river or was thrown in is difficult to determine, but it is generally believed that he was thrown in. Search was made for the body and after some time it was found.

Fifteen men were indicted for the murder of Boyd Wilkinson. In the first trial eight were found not guilty, to the utter astonishment of the public. Five others were tried at a special term of the district court and were also cleared, although one of them was sent to the penitentiary later on another charge.<sup>69</sup>

*William P. Barger, Michael Carroll, and ————, Jackson County, May 29, 1857.*—William P. Barger, Mi-

<sup>69</sup> *Marietta Weekly Express*, Vol. I, No. 37, September 8, 1857; *Iowa Weekly Republican* (Iowa City), Vol. IX, No. 509, Wednesday, August 18, 1858; *Muscatine Daily Journal*, Vol. IV, Nos. 260 and 270, Thursday, May 5, and Monday, May 16, 1856; and *History of Johnson County, Iowa* (Iowa City, 1883), pp. 216-219.

chael Carroll, and another thief were confined in the jail at De Witt, Clinton County, awaiting trial when a mob of Iron Hills Vigilants lynched them. One account says: "Last Thursday morning, an armed Mob of about 40 men, passed through this city on their way to De Witt, headed by one H. K. Landis, Postmaster at Iron Hill, in this county. Their movements were open, calm and deliberate. They reached De Witt toward evening, and repaired in a body to the Jail, which they entered without resistance. The county officers and citizens looking on with indifference at the violation of their sacred rights and municipal laws. The Sheriff had left the outside door open as he did not wish the Jail broken: the door leading to the prisoner's lock-up gave way with slight resistance. When the conspirators had dragged the prisoners out, an attempt was made by the Sheriff to summon a posse, and a half dozen brave Clintonians seized Barger by the legs as he was being tumbled into the wagon; but the Mob held fast and drove rapidly away with their prisoner. The other prisoner, Carroll, was secured without difficulty. The Sheriff of Clinton county distinguished himself by breaking the nose of one of the mob with a blow from a gun. Early on Friday morning, the Mob-train passed through this city with their victims, on their way to Andrew, the seat of Lynch Justice chosen by the self-styled Vigilance Committee. Arrived at Andrew, no time was lost in useless preliminaries. A black handkerchief was tied over Barger's face, the rope adjusted by Captain Landis, a *young lad* climbed the tree (the same where Gifford swung) and threw it over the consecrated limb. About twenty men laid down their guns, manned the rope, and Barger swung between the heavens and the earth; a few short heavings of the chest, a spasm of the feet and legs and Barger hung a quivering corpse. Men women and children looked on the spectacle and winced not. Not-

withstanding the summary proceedings of the Mob, a large concourse of people was present. Many went out from this vicinity out of a morbid curiosity. Some of them had the *pleasure* and some were *disappointed*. We commiserate both.

"After despatching Barger, the Mob took a vote on Carroll's case, and decided not to hang him just then. He was placed in the jail, to be kept and guarded until further orders from the High court of Judge Lynch."<sup>70</sup>

While Barger still hung Carroll and the other thief were given severe whippings, after which Carroll was turned over to the civil authorities, while the other man was banished. Barger was buried near the spot of his execution, and the next morning some of the "refined spirits" of the mob dug up his body, placed it upright in a buggy, and drove it to Cobb's Hotel leaving a paper in the hand of the corpse calling for dinner and horse feed.<sup>71</sup>

———, *Lee County, May 30, 1857*.— On Saturday, May 30, 1857, the steamboat Saracen was at the Ft. Madison landing when trouble arose between a negro and a mate of the boat. It was about eleven o'clock in the forenoon when this trouble arose. The mate struck the negro so severely that the latter fled to a stable on shore closely pursued by

<sup>70</sup> *The Cedar Valley Times* (Cedar Rapids), Vol. VI, No. 38, Thursday, June 11, 1857.

<sup>71</sup> Quotation from the *Maquoketa Excelsior* in *The Cedar Valley Times* (Cedar Rapids), Vol. VI, No. 38, Thursday, June 11, 1857; *The Iowa Weekly Citizen* (Des Moines), Vol. II, Nos. 18 and 20, Wednesday, June 17, and July 1, 1857; *Dubuque Express and Herald*, Vol. VIII, Friday, June 5, 1857; *Daily Hawk-Eye & Telegraph* (Burlington), Seventh year, Nos. 288 and 292, Thursday, June 4, and Tuesday, June 9, 1857; *Muscatine Daily Journal*, Vol. II, No. 256, Tuesday, June 2, and Vol. III, Nos. 1 and 2, Saturday, June 27, and Monday, June 29, 1857; *The History of Jackson County, Iowa* (Western Historical Company, Chicago, 1879), pp. 406, 407; Ellis's *More about the Thrilling Crimes in Pioneer Days in the Annals of Jackson County, Iowa*, No. 3, 1906, pp. 68-75; and the *Discovery of the Counterfeiters in the Annals of Jackson County, Iowa*, No. 1, 1905, pp. 29-34.

the shipmen. He was hustled on board again and with drawn knives and guns the crew prepared to flog the negro. A mob soon collected, abolition spirit being high, and as the negro was being stripped for the flogging Dr. W. H. Davis, Justice of Peace, gave orders that the boat be retained until the difficulty was settled. The crew did not wish to obey this order and a fight began. The crowd threw stones and other articles at the crew while the latter returned the attack with bullets. Even Captain Stran of the boat participated in the shooting. Samuel Henderson was mortally wounded, and Thomas Slick and Samuel Bricker were slightly wounded. Injuries of a very light nature were received by Landon Bricker, G. Nubia, and J. S. Edson. The boat succeeded in getting off and an attempt to intercept it at Burlington failed.<sup>72</sup>

*John Schubert and family, Linn County, June 3, 1857.*—The daughter of John Schubert was raped by a man from Linn County who forced her to promise to keep the fact a secret under threats of violence should she disclose the fact. She kept the secret as long as possible and then told her parents. This led to a damage suit against the offender, and in order to retaliate he gathered a gang together on May 7, 1857, and waited upon John Schubert and family, who were ordered to leave the country. Some of the gang were recognized and arrested. This made matters worse and on June 3, 1857, the gang again came to Schubert's home and after treating him and his family shamefully loaded their possessions on wagons and sent them out of the country. The mob seemed to be well organized and exhib-

<sup>72</sup> *Daily Hawe-Eye & Telegraph* (Burlington), Seventh year, Nos. 285 and 288, Monday, June 1, and Thursday, June 4, 1857; *Des Moines Valley Whig* (Keokuk), Vol. XI, No. 40, Wednesday, June 3, 1857; *The Gate City* (Keokuk), Vol. IV, No. 81, Tuesday, June 2, 1857; *The Washington Press*, Vol. II, No. 5, Wednesday, June 10, 1857; and *Ward's Own* (Troy, Iowa), Vol. I, No. 9, Saturday, June 6, 1857.

ited reckless daring, since this last incident happened in daylight.<sup>73</sup>

*Alonzo Page, Cedar County, June 18, 1857.*—Soon after the organization of the Regulators in Cedar County a man named William Corry became a member of the order. He lived near Rock Creek. Near him, not far from Lowden, lived Alonzo Page and his family. Some trouble arose between these two men and as a result Corry circulated a report that Page was connected with the horse thieves who infested the country at that time. The Regulators believed the report and gave Page notification to leave the country. The friends of Page persuaded him to remain, thinking the Regulators would do nothing. On the night of June 18, 1857, however, the Regulators came to Page's house. Page tried to persuade them to disperse, but he failed and they attacked the house. At this time Page's wife was critically ill, but an appeal on that account did not move the mob to desist. The windows and doors were broken in and Page was shot and mortally wounded. The fatal shot is said to have been fired by Corry.<sup>74</sup>

*Bennett Warren<sup>75</sup> and Charles Clute, Clinton County, June 24, 1857.*—Charles Clute was not allowed to live in peace after the first attentions of the vigilants which occurred in 1856, but he was again taken on June 24, 1857, together with Bennett Warren, both of whom were working on a house in Scott County. They were driven into Clinton County where the mob proceeded to try Warren in

<sup>73</sup> *The Daily North West* (Dubuque), April 7, and June 3, 1857.

<sup>74</sup> *The History of Cedar County with a History of Iowa* (Historical Publishing Company, Chicago and Cedar Rapids, 1901), Vol. I, pp. 361-363; *Gue's History of Iowa*, Vol. I, pp. 341, 342; *Des Moines Valley Whig* (Keokuk), Vol. XI, No. 44, Wednesday, July 1, 1857; and *Muscatine Daily Journal*, Vol. II, No. 267, Thursday, June 25, 1857.

<sup>75</sup> One source gives Benjamin as the first name.

lynch court. No opportunity for defense was given and of course he was soon convicted. R. H. Randall of Clinton County presided at the court. At first a vote was taken to decide whether they would punish Warren or not, for he was an old man. Punishment was decided upon, and then a vote was taken to determine whether it should be whipping or hanging and after some deliberation hanging was finally chosen. Randall in writing about the case afterwards said: "I got upon a wagon and began to tell my reasons for opposing their vote as best I could for about ten minutes, and was making many changes of votes when a man came to me and said, 'Randall, if you don't stop that you will be shot inside of five minutes.' I replied, 'One murder is enough', and ran out of sight. I am not ashamed of anything I did that day, so you may use my name."

Warren was hanged by the mob as a public example and Clute was loosed after he had been terrified by threats until he promised to leave the country. Not long afterward he disappeared and was not heard from again.<sup>76</sup>

*Jacob A. Warner*,<sup>77</sup> *Cedar County, June 25, 1857*.— Varying accounts are given of the lynching of Jacob A. Warner. He is said to have been taken on June 25th, 1857, to Warren's Settlement and hanged by a mob of more than three hundred men. A lynch trial was given him in which witnesses were examined and finally the accused was convicted of being connected with a gang of outlaws then working in Iowa. Thirty votes were cast for whipping and about three hundred for hanging. Warner wanted to make about thirty

<sup>76</sup> Gue's *History of Iowa*, Vol. I, pp. 343-346; *The History of Clinton County, Iowa* (Western Historical Company, Chicago, 1879), pp. 439-441; *The History of Cedar County with a History of Iowa* (Historical Publishing Company, Chicago and Cedar Rapids, 1901), pp. 363-365; and *Des Moines Valley Whig* (Keokuk), Vol. XI, No. 94, Wednesday, July 1, 1857.

<sup>77</sup> Some authorities give Benjamin as the first name.

bequests before they executed him, but the mob thought that would take too long and they immediately hoisted him into the air. Later accounts say that Sergeant and Denny, two other outlaws, were present to witness the example made of Warner.<sup>78</sup>

*Peter Conklin, Cedar County, June 27, 1857.*—Peter Conklin, who was supposed to be operating with a gang of thieves in the region of Johnson County, was caught near Yankee Run on the road to Tipton in Cedar County on June 27, 1857, by the Regulators and shot dead. He had been suspected for some time and after his death his body was taken to Iowa City where two hundred dollars in rewards were offered for it.<sup>79</sup>

—————, *Jones County, June 29, 1857.*—“An extract from the Anamosa Gazette of the 30th, states that a horse thief who was convicted on the day before of stealing a horse on Sunday last, at Fairview, and brought to Anamosa for confinement, was taken at 12 o'clock from the house of Mr. Peet, where he was quartered, by a mob of about sixty men, and hung. No traces of the mob have been discovered, but it is supposed that the men composing it came from the south-east. The thief's name is not given.”<sup>80</sup>

<sup>78</sup> *The Daily Hawk-Eye* (Burlington), Eighth year, No. 3, Wednesday, July 1, 1857; *The Daily North West* (Dubuque), Vol. II, No. 18, Friday, July 10, 1857; *The History of Clinton County, Iowa* (Western Historical Company, Chicago, 1879), pp. 440, 441; *The History of Cedar County with a History of Iowa* (Historical Publishing Company, Chicago and Cedar Rapids, 1901), pp. 363-365; and Gue's *History of Iowa*, pp. 343-346.

<sup>79</sup> Gue's *History of Iowa*, Vol. I, pp. 342, 343; *The History of Cedar County with a History of Iowa* (Historical Publishing Company, Chicago and Cedar Rapids, 1901), p. 363; and a clipping from the *Davenport Gazette* entitled *More Hanging of Horse Thieves* found in the *Aldrich Collections* in the State Historical Library at Des Moines.

<sup>80</sup> *The Washington Press*, Vol. II, No. 11, Wednesday, July 22, 1857; and a quotation from the *Anamosa Gazette* in *The Daily Hawk-Eye* (Burlington), Eighth year, No. 15, Thursday, July 16, 1857.

*Alonzo Gleason and Edwin Soper, Cedar County, July 3, 1857.*— On July 2, 1857, the sheriff of Cedar County brought Alonzo Gleason and Edward Soper into Tipton and placed them in jail. That night the jail was broken into by a mob of perhaps two hundred men, and Gleason and Soper were taken out and tried in lynch court. Gleason was firm, but Soper wept and confessed. They were taken to Martin Henry's home south of Lowden and hanged to a tree. The immediate cause of the arrest of Gleason and Soper was the stealing of a horse from Charles Penningroth who lived two miles south of Lowden. This horse was stolen and taken to Illinois for sale, and immediately upon the return of the thieves they were arrested. Attempts were made to prosecute the Regulators, but sentiment ran so high against such proceedings that nothing was accomplished. Threats were made against any who should dare to give information against the Regulators and no doubt the threats would have been executed.<sup>81</sup>

———, *Cedar County, July 5, 1857.*— A horse thief was hanged outside of Tipton on Sunday night, July 5, 1857. The name of the victim is not known.<sup>82</sup>

———, *Jones County, July 5, 1857.*— “A young thief some 18 years of age was caught in the act of stealing a horse, near Fairview, on Sunday evening last and received as a reward, seventy lashes — some say they killed him.”<sup>83</sup>

<sup>81</sup> Clipping from the *Davenport Gazette* entitled *More Hanging of Horse Thieves* found in the *Aldrich Collections* in the State Historical Library at Des Moines; *The History of Cedar County with a History of Iowa* (Historical Publishing Company, Chicago and Cedar Rapids, 1901), Vol. I, pp. 365-367; and *The Washington Press*, Vol. II, No. 10, Wednesday, July 15, 1857.

<sup>82</sup> *Muscatine Daily Journal*, Vol. III, No. 11, Friday, July 10, 1857.

<sup>83</sup> *The Washington Press*, Vol. II, No. 10, Wednesday, July 15, 1857; and the *Muscatine Daily Journal*, Vol. III, No. 11, Friday, July 10, 1857.

——— *Teedles, Jones County, July 8, 1857.*—“We understand from a gentleman from Hickory Grove, that the Vigilance Committee arrested a man by the name of Teedles at Bear creek on Wednesday evening, and after trial [he] was sentenced to be hung, which sentence they immediately proceeded to execute. After hanging him, the Committee notified his friends that they could take charge of his body which they at once proceeded to do, and as his neck was not broken, he was restored to life. The Committee hearing this immediately prepared to re-execute him, but he begged for his life, promising to divulge all he knew of the gang. He gave many names of persons connected with horse stealing and counterfeiting and we may expect lively times in that quarter.”<sup>84</sup>

——— *Long and. ———, Jones County, July 10, 1857.*—A certain Dr. Long and his brother, who lived in Jones County in 1857, were suspected of being connected with the horse thieves then infesting the eastern part of Iowa. On July 10th the Vigilance Committee went to the home of the Longs, who lived on the road from Anamosa to Monticello; but in some way Dr. Long had heard of their intended visit and had escaped. The committee, however, found Dr. Long's brother and an accomplice and took them to the woods and hanged them. A detachment of the committee was sent in search of Dr. Long as far as Cascade, but they did not catch him as he had taken refuge with Jack Parrott of that town. The two men who were sent after him remained about town on Sunday night long enough to decide that the chances of getting Long were hazardous.<sup>85</sup>

<sup>84</sup> Quotation from the *Davenport Democrat* in the *Muscatine Daily Journal*, Vol. III, No. 10, Thursday, July 9, 1857.

<sup>85</sup> *Muscatine Daily Journal*, Vol. III, No. 17, Friday, July 17, 1857; and a quotation from *The Dubuque Republican* of July 14, 1857, in *The Daily Hawk-Eye* (Burlington), Eighth year, No. 17, Saturday, July 18, 1857.

*Jack Parrott, Dubuque County, July 13, 1857.*—“It was rumored here in Dubuque yesterday, that a crowd of three hundred people had surrounded the house of a man named Jack Parrot,<sup>86</sup> in Cascade, and took him away determined to hang him on suspicion of being a horse thief.”<sup>87</sup>

——— *Kelso and ——— ———, Cedar County, July 14, 1857.*—The Vigilance Committee captured a man named Kelso and his accomplice in Cedar County on July 14, 1857, and after trying them in lynch court and obtaining a verdict of guilty they hanged them to a tree. A young farmer named Finch was present and voted in favor of hanging them. When he returned home and his mother learned of the incident and his vote, she rebuked him so severely that he went out to the field and hanged himself.<sup>88</sup>

*William B. Thomas,<sup>89</sup> alias “Comequick”, Poweshiek County, July 14, 1857.*—The trial of William B. Thomas at Montezuma for the murder of Mr. and Mrs. Casteel had come to a critical point on July 14, 1857, when a change of venue was asked for and granted by Judge Stone. The feeling prevailed in the community that if Thomas were allowed a change of venue he would probably escape justice and when the change of venue was granted a mob, incited by the relatives and friends of the Casteel family, rushed into the court room, seized the prisoner after a brief but fierce struggle, and took him to the edge of town where he was hanged until dead. He was given a chance to speak, but nothing could have moved the mob to mercy.

<sup>86</sup> Some authorities give Parrott as the spelling.

<sup>87</sup> *The Daily Hawk-Eye* (Burlington), Eighth year, No. 17, Saturday, July 18, 1857; and *Daily Express and Herald* (Dubuque), Vol. VIII, Tuesday, July 14, 1857.

<sup>88</sup> Quotation from the *Anamosa Eureka* in the *Muscatine Daily Journal*, Vol. III, No. 19, Monday, July 20, 1857.

<sup>89</sup> One account gives J. W. Thomas as the name.

They built a fire beneath the prisoner to add to his torture and aid in forcing a confession of murder from him. He finally told the mob that any explanation he could make would not save him and would only implicate others and hence he would be silent. After the body had hung for about four hours it was taken down and buried near the spot where he was hanged. The mob quietly dispersed after the lynching and did no further violence.<sup>90</sup>

——— *Kieth, Cedar County, July 21, 1857.*— On July 21, 1857, a mob of about four hundred men from Mechanicsville took a man named Kieth charged with counterfeiting and horse stealing, and after a short trial in lynch court they found him guilty of the charges and hanged him to a tree. The mob then searched for John F. Cole, also charged with horse stealing, but he was not found.<sup>91</sup>

*William Redman, Mahaska County, December 4, 1857.*— “Wm. Redman was made the subject of popular violence in Oskaloosa a few days ago as the overseer of a house of ill fame, he was tarred and feathered and ridden on a rail, and expelled from the city. The women in the house were also notified to leave, which they did.”<sup>92</sup>

*Hiram T. Roberts, Jones County, December 4, 1857.*— Hiram T. Roberts lived near Red Oak Grove in Cedar County in 1857 and gained the reputation of being a thief and a

<sup>90</sup> *The Daily Hawk-Eye* (Burlington), Eighth year, Nos. 19 and 32, Tuesday, July 21, and Wednesday, August 5, 1857; *The Montezuma Republican*, Vol. II, No. 9, July 18, No. 12, August 8, No. 13, August 15, and No. 14, August 22, 1857; *Muscatine Daily Journal*, Vol. III, No. 16, Thursday, July 16, No. 18, Saturday, July 18, No. 25, Monday, July 27, and No. 30, Saturday, August 1, 1857 (gleanings made from the *Iowa City Republican*); *Gue's History of Iowa*, Vol. I, pp. 338-340; and *Parker's History of Poweshiek County, Iowa* (1911), pp. 62, 63, and 66.

<sup>91</sup> *Iowa Democratic Inquirer* (Muscatine), Vol. IX, No. 51, Thursday, July 23, 1857.

<sup>92</sup> *Muscatine Daily Journal*, Vol. III, No. 29, Friday, July 31, 1857.

dealer in counterfeit money. A mob caught him on December 4, 1857, at the house of James W. Hamlin, where he had been staying, and took him away for a trial in lynch court. The mob was about four hundred strong and there was little trouble in getting him, although to avoid any prolonged struggle in his capture the mob promised him a trial in the regular courts. This promise was never fulfilled. After a time the mob came to the barn of George Saum in Jones County where they stopped for parley.

While the main part of the mob withdrew for consultation a small detachment remained with Roberts in the barn. Roberts had confessed that he had passed about \$300,000 in counterfeit money in his life, and fearing lest the courts might allow him to escape his captors decided to hang him in the barn before the other members of the mob could return. Thus he was hanged and the main part of the mob returned later only to find their victim already dead. Six of the mob suspected of being involved in the lynching were arrested and bound over to the next term of the district court at Anamosa. A number of witnesses disappeared, friends of the accused were drawn on the jury, and as a result the case was finally dropped. Public opinion generally favored the Regulators.<sup>93</sup>

———, *Jones County, December, 1857*.—A young horse thief was caught by the Regulators during the second week of December, 1857, and taken to a tree and stretched in order to force a confession from him. Stretching by the neck did not have the desired effect and so whipping was

<sup>93</sup> *Muscatine Daily Journal*, Vol. III, Nos. 142 and 146, Friday, December 11, and Wednesday, December 16, 1857; *The History of Jones County, Iowa* (Western Historical Company, Chicago, 1879), pp. 354, 355; *The History of Cedar County with a History of Iowa* (Historical Publishing Company, Chicago and Cedar Rapids, 1901), Vol. I, pp. 367-369; Gue's *History of Iowa*, Vol. I, p. 348; and *The Anamosa Eureka*, Vol. LV, No. 7, Thursday, September 29, 1910 (clippings from *The Eureka* of December 2 to 30, 1869).

tried. This brought a confession that implicated others and proved the guilt of Hiram T. Roberts who had been hanged not long before.<sup>94</sup>

*Andrew L. Millslagle, Montgomery County, January, 1858.*—Some time about 1857, Andrew L. Millslagle went to Montgomery County and lived with Mr. Wilson. After a time Wilson began to complain that Millslagle had alienated his wife. A temporary separation ensued which so aroused the community that a mob gathered one Saturday night in January, 1858. Tar and feathers were prepared and the mob went to the Wilson home to get Millslagle. They found the door barricaded. John Stipe and Allen Donado were sent ahead of the mob to inspect the situation and they received bullets for their boldness. One of the mob named Abbott was wounded as were a number of others. Several attempts were made to enter the house, but they were unsuccessful as Millslagle defended himself by a deadly fire. A load of burning hay was pushed toward the house in an attempt to burn him out, but this failed. Finally Millslagle escaped from the house and took refuge in the cellar of Benjamin Archer who lived near Wilson. When the mob found that Millslagle had escaped they followed him and met Mrs. Archer who plead with them for mercy. The mob would not listen to her and when Millslagle saw that they were going to take him dead or alive, he surrendered after inducing them to promise him a fair trial in the courts. He was taken to Sidney and placed in jail. Many members of the mob would have been only too glad to have hanged him, but calmer counsels prevailed. During the fight Millslagle was shot through the ear.

Millslagle was convicted and sent to the penitentiary for ten years. Wilson and a man named Clark were both tried

<sup>94</sup> *Muscatine Daily Journal*, Vol. III, No. 146, Wednesday, December 16, 1857.

for adultery. Mr. and Mrs. Wilson were finally united again with fairly good indications that they would live peaceably together.<sup>95</sup>

*Isaac Byers, Lige Byers, ——— Byers, and ——— Byers, Keokuk County, 1858.*— The exact date of the lynching of the Byers boys is not known. It is generally conceded to have been about 1858 and the incidents tend to indicate that this was about the date. Certain correspondents in writing of this case place it as early as 1844, but there is little to be said in favor of so early a date. There were four of the Byers brothers. Isaac had been arrested for horse stealing, but had escaped from jail. On the day following his escape the Vigilance Committee came to his house, dragged him from bed, and took him to the woods. Here they stretched him by the neck to force a confession from him. This plan did not produce the desired effect, so the mob tried whipping him, but this seemed of no avail and finally he was ordered to leave the country. Later the family moved from "Brushy Bend" to Richland. Stealing did not cease in the country and again the Vigilance Committee visited the Byers home. They caught one of the boys and tied him to the tail of a horse and made him run after the horse into the woods, where he was loosed and whipped. He was then ordered to leave the country. Not long after this incident Lige Byers was caught in a theft and was taken to the woods, whipped, and banished. He did not remain away, however, and when he returned the Vigilance Committee again took him to the woods and whipped him. Still another one of the Byers was lynched before the committee had completed its work.<sup>96</sup>

<sup>95</sup> *Muscatine Daily Journal*, Vol. III, No. 146, Wednesday, December 16, 1857; and *History of Montgomery County, Iowa* (Iowa Historical and Biographical Company, Des Moines, 1881), pp. 382-386.

<sup>96</sup> *The History of Keokuk County, Iowa* (Union Historical Company, Des Moines, 1880), pp. 448-451; and correspondence of the writer.

——— *Wyant, Keokuk County, 1858.*—Wyant was an accomplice of the Byers boys and about the same time (1858) that the Byers were lynched by the Vigilance Committee, Wyant was caught and whipped in the woods of "Brushy Bend". He was then ordered out of the country.<sup>97</sup>

——— ———, *Keokuk County, 1858.*—The Vigilance Committee became so active in Keokuk County that adverse sentiment developed and attempts were made to prosecute the lynchers. A certain witness intended to appear against the committee, but they took him in charge, got him drunk, and took him to the woods where he was given a good whipping. He was then told to get out of the country. When the trial was called no witness could be found.<sup>98</sup>

*Miles Randall, Boone County, about 1858.*—Miles Randall, a supposed friend of the Pardees, a gang of outlaws who operated in the region of Boone County, was caught and whipped in the woods about a year after the attempted lynching of the Pardees. Randall left the country.<sup>99</sup>

——— *Farr and* ——— *Warner, Boone County, April, 1859.*—When Boone County was first opened many people went into the county to reap the profit to be derived from its timber lands. Companies were formed and logs were rafted down the Des Moines River and made into lumber. The system of branding became so confused in 1859 that many logs were stolen from some of the companies. Secret branding was done and claim was laid to logs in this way. The branders became unpopular. Finally the Des Moines Navigation and Railroad Company, which had been getting

<sup>97</sup> *The History of Keokuk County, Iowa* (Union Historical Company, Des Moines, 1880), p. 450.

<sup>98</sup> *The History of Keokuk County, Iowa* (Union Historical Company, Des Moines, 1880), pp. 450, 451.

<sup>99</sup> *The History of Boone County, Iowa* (Union Historical Company, Des Moines, 1880), p. 472.

logs, sent Farr and Captain Warner up the river to do some branding in order that they might be better prepared to claim their own logs. In April a mob of independent rafters caught Farr, who was on the west side, and after whipping him severely, sent him out of the country. They then crossed over to the other side and finding Captain Warner, fired on him, and he speedily left the country. The mob was masked and even though attempts were made by lawyers sent by the Navigation Company arrests were difficult.<sup>100</sup>

——— *Burrill and* ——— *Mercer, Boone County, 1859.*— After Farr and Warner had been run out of the country the Navigation Company sent two other men, Burrill and Mercer, to see what they could do. One day in the fall of 1859 Burrill and Mercer came upon three men loading logs in the woods of Boone County. At once suspicious, the men asked Burrill and Mercer what their business was and the latter replied that they were leasing coal lands and produced papers in evidence of the veracity of this statement. One of the three thieves saw through the ruse and covered Burrill and Mercer with his gun.

Burrill and Mercer had been caught by the timber thieves instead of catching them. The thieves, however, did not know what to do with their prisoners. They were locked in a cabin for about four hours, at the end of which time the thieves had arrived at a conclusion as to how to dispose of them.

Burrill and Mercer were told that they would be allowed to go if they would promise not to prosecute their captors, and that they should have horses upon which to get away. The offer was accepted and soon Burrill and Mercer were

<sup>100</sup> Lucas's *Days of the Riverland Troubles* in the *Madrid Register-News*, Vol. XXVIII, No. 18, Thursday, December 8, 1910; and *The History of Boone County, Iowa* (Union Historical Company, Des Moines, 1880), pp. 472-474.

riding through the woods, glad to escape so easily. Just as they arrived in the thickest part of the woods, however, a band of men suddenly surrounded them, accused them of stealing the horses, and took them to a magistrate, charging them with theft. The magistrate placed them in confinement, but that night it is apparent that he purposely left the door unlocked and consequently Burrill and Mercer escaped.<sup>101</sup>

*Miss ——— Carpenter, Perry Carpenter, ——— Burroughs, ——— Huffman, and about six others, Keokuk County, June 4, 1859.*— Perry Carpenter and his daughter were placed in confinement at Lancaster, Keokuk County, in June, 1859, on the charge of lewdness. Along with them were other prisoners — Burroughs, Huffman, and probably about six others charged with minor thefts. On the night of the fourth of June, 1859, a mob of Vigilants, numbering from sixty to one hundred, surrounded the jail and with little resistance seized the prisoners and drove with them to the woods. The mob stopped at Martin's Ferry on the South River and gave each of the prisoners a whipping. One account says that Burroughs and Huffman were allowed to go free, but an eye witness stated to the writer that they were all whipped. Sheriff Matthew P. Donahey gave his moral support to the proceedings and he accompanied the mob. He states that during the whipping Jacob Wimer questioned Carpenter's daughter about her conduct and she slapped him in the face for a reply. Haden Chasteen, Wimer's son-in-law, thereupon proceeded to give the Carpenter girl a spanking. After the victims were whipped they were given conveyances and sent off in different direc-

<sup>101</sup> Lucas's *Days of the Riverland Troubles* in the *Madrid Register-News*, Vol. XXVIII, No. 18, Thursday, December 8, 1910; and *The History of Boone County, Iowa* (Union Historical Company, Des Moines, 1880), pp. 472-474.

tions with the warning not to join each other again or return to Keokuk County.<sup>102</sup>

——— *Burroughs, Keokuk County, June 8, 1859.*—Burroughs did not obey the command of the committee to get out of the country, and when this fact was discovered the Vigilants caught him on June 8, 1859, gave him thirty-five lashes with a horsewhip and again ordered him to leave the country and never return. This time he obeyed.<sup>103</sup>

*Robert Jones Kerle,<sup>104</sup> Delaware County, June 9, 1859.*—“On the night of the 9th, (Tuesday) Kearn was called up by John Mullen and requested to come to the door. He did so without waiting to dress himself. When he arrived at the door some one caught him by the arm and attempted to haul him out. He struggled to defend himself, when several others rushed in, and after tearing down the partition between the bedroom and kitchen succeeded in dragging him out, when they tied a rope around his body and dragged him the distance of nearly a mile, and told him if he did not ‘own up’ to a knowledge of the whereabouts of a certain horse they would hang him. He told them he knew nothing of the horse, and they then proceeded to put their threat into execution by adjusting the rope around his neck, putting it over a limb of a tree and stringing him up.” Some reports state that Kerle died, but if he did, he lived long enough to cause the arrest of Thomas W. Robinson, Levi Washburne, John

<sup>102</sup> *The Washington Press*, Vol. IV, No. 6, Wednesday, June 22, 1859.

<sup>103</sup> *The Washington Press*, Vol. IV, No. 6, Wednesday, June 22, 1859.

<sup>104</sup> *The Register and Leader* (Des Moines), Vol. LVII, No. 195, Sunday, January 13, 1907, contains an account of the lynching of a man whose name is given as Carl, probably referring to the same man. *The Daily Express and Herald* (Dubuque), Vol. XI, Thursday, June 16, 1859, gives the name as Kearn, but the reference in *The Register and Leader* to the fact that the victim was in the war furnishes an official source for the spelling of the name which has been adopted.—See *Roster and Record of Iowa Soldiers in the War of the Rebellion*, Vol. III, p. 508.

Mullen, and Abner D. Campbell whom he recognized in the mob.<sup>105</sup>

——— *Bunker, Polk County.*—Some time before the lynching of Heiner in Four Mile Township one of the Bunker brothers was caught by the Vigilance Committee in Des Moines and taken to the place where Twelfth and Walker streets cross, where he was stretched by the neck in an attempt to force a confession from him. As a result he told the whole story of the gang. The information thus gained led to the arrest and later lynching of two other members of the gang, namely, Charley and William Bunker.<sup>106</sup>

*Charley Bunker and William Bunker, Tama County, January 4, 1860.*—Constable Seaman of Lee Township, Polk County, and another prominent citizen, Lemuel Small, were sent to arrest one of the Bunker boys in Tama County in January, 1860. Before they returned they had arrested Charley and William Bunker. On their way back on January 4th, they stopped at a grove near Mr. Klingman's house in Polk County and there attempted to extract a confession from their prisoners. In Wood's Grove or Buckingham Grove one of them was stretched up by the neck to induce him to confess. While this was being done the other Bunker endeavored to escape. Both Seaman and Small pursued him and when they returned with the captive they found that the man they had left hanging was dead. Then to protect themselves they hanged the other Bunker and left them both dead.

Seaman, Small, and Klingman were arrested on the charge of murder, but to convict them was another matter.

<sup>105</sup> *Daily Express and Herald* (Dubuque), Vol. XI, Thursday, June 16, 1859; *Muscatine Daily Journal*, Vol. IV, No. 302, Tuesday, June 21, 1859; and *The Register and Leader* (Des Moines), Vol. LVII, No. 195, Sunday, January 13, 1907.

<sup>106</sup> Correspondence of the writer.

They escaped the officers and left the country. Seaman died in a short time, but when Small returned his case was again taken up and he was convicted. He finally escaped punishment, however, after a long contest.<sup>107</sup>

*John Kephart, Jefferson County, July 5, 1860.*— When William Willis of Muscatine decided to move westward with his family and seek a new home he employed a former preacher named John Kephart to aid him in the trip. When they had reached Missouri it is thought that Kephart killed Willis by poisoning him. Remaining in Missouri for a time he sold whiskey to the Indians. The Willis family then took a northwestward route as far as Cherokee County, and returned through Des Moines County along the Des Moines River valley, evidently returning to Missouri. On this journey Kephart discovered that Mrs. Willis had quite a sum of money (\$410) in her possession and evidently in order to get this money he murdered her and her daughter, Mary Jane. One son, James T., was allowed to live. The two dead bodies were found on June 29, 1860, near Batavia in the sand and water of the Skunk River.

Kephart had been noticed as he passed through the country and it was with little difficulty that his trail was followed. The sheriff and a posse overtook him at Upton, Missouri. The wagon showed marked evidences of the murder. Apparently the bodies had been carried in the wagon for some time, and an attempt to wash off the blood had resulted only in failure.

<sup>107</sup> *Buchanan County Guardian* (Independence), Vol. III, No. 44, Thursday, January 19, 1860; *The Register and Leader* (Des Moines), Fifty-seventh year, No. 34, Sunday, August 5, 1906; *The Hanging of the Bunkers in the Aldrich Collections* (Historical Department Library, Des Moines), Iowa History 2, p. 28, a clipping based on an account in the *Eldora Herald*; *Blyler's Crimes in Pioneer Polk County Days*, a clipping from *The Register and Leader* (Des Moines); *Chapman's History of Tama County, Iowa* (1879), pp. 112-114; *Boone Daily News*, Vol. XVI, No. 92, Tuesday, April 19, 1904; and correspondence of the writer.

On the third of July Kephart was brought to Batavia and placed in jail. Citizens took the little boy, James, who was found with Kephart, went over the trail that Kephart had followed, and found abundant evidence of his guilt.

Stories of Kephart's former career became current in the community and the recent murders caused a very tense feeling against him. It was claimed that Kephart was one of the gang of desperadoes that infested Kentucky at this time. It was also said that he had been condemned to death in Lancaster, Ohio, in 1833 for murder, but that he had escaped.

The feeling ran so high that on Tuesday morning, July 5, 1860, a mob from two hundred and fifty to four hundred strong, which finally increased in number to about 1000, came to the jail at Batavia, broke it open, and took Kephart out. He was placed in a wagon and driven to the place on the Skunk River where the bodies were found. In the meantime a grave had been dug and a scaffold erected for the execution. Here Kephart was allowed to speak, but no trial was given. He was shown the open grave which was to be the reward of his criminal career, and at three o'clock in the afternoon the trap door was sprung and the old man was hanged until dead. After the lynching the mob quietly dispersed.<sup>108</sup>

<sup>108</sup> *The Weekly Iowa State Register* (Des Moines), Vol. V, No. 22, July 11, 1860; *Judge Lynch in Jefferson County* in *The Register and Leader* (Des Moines), Vol. LV, No. 115, Friday, October 23, 1904; *Burlington Daily Hawk-Eye*, Ninth year, Friday, July 6, 1860; *The Weekly Ottumwa Courier* (New Series), Vol. V, Nos. 26 and 27, Thursday, July 5, and Thursday, July 12, 1860; *Muscatine Daily Journal*, Vol. V, Nos. 312 and 313, Friday, July 6, and Saturday, July 7, 1860; Jaques's *The Kephart Lynching* in *The Fairfield Tribune* (New Series), Vol. XXXIX, No. 49, Wednesday, February 8, 1911; *The History of Jefferson County, Iowa* (Western Historical Company, Chicago, 1879), pp. 410-412; *True Story of Iowa Lynching* in *The Register and Leader* (Des Moines), Vol. LV, No. 122, Sunday, October 30, 1904; and correspondence of the writer.

——— *Heiner, Polk County.*—Some time in the early part of the sixties a man named Heiner became suspected of being the leader of a gang of thieves in Polk County. The Vigilance Committee pursued him a long distance and finally caught him in the woods south of Des Moines. He was taken before a Justice of the Peace but the trial proceeded too slowly to suit the committee. The defendant was discharged and the attorney was compelled to return to Des Moines without his client. That night Heiner disappeared. No one seems to know what became of him, but stories are current to the effect that he was hanged and thrown into the river.<sup>109</sup>

*Philip McGuire, Pottawattamie County, October 16, 1860.*—During the period when stealing was so common in 1860, Philip McGuire kidnapped John Williamson and a woman in Pottawattamie County and attempted to sell them into slavery. McGuire was captured on the Missouri River with a lot of stolen goods, horses, and mules. He was arrested and placed in the cottonwood jail in Council Bluffs. During the following night, October 16, 1860, he was taken out by a mob and hanged to a tree on Mt. Lincoln. On a card attached to his dead body was this inscription: "Hanged for all kinds of rascality."<sup>110</sup>

*Joseph Wert, Polk County.*—During the war a man named Joseph Wert became known in the vicinity of Polk County as the leader of a gang of law-breakers. Wert had lived in Ohio and when he came to Iowa he was accompanied by a friend. For some reason Wert burned the tannery belonging to his friend, who lived in Mitchelltown (Mitchellville). The Vigilance Committee took up the matter and as

<sup>109</sup> Correspondence of the writer.

<sup>110</sup> *History of Pottawattamie County, Iowa* (O. L. Baskin & Company, Historical Publishers, Chicago, 1883), p. 168.

a result Wert was seen no more. Just what became of him is not known.<sup>111</sup>

——— *Miller, Pottawattamie County, July, 1863.*— About three years after the lynching of McGuire a man named Miller was arrested and placed in the jail in Council Bluffs. One night in July, 1863, a mob again broke into the jail, took Miller out to the east part of town, and hanged him to a tree. He had been arrested for horse stealing in Harrison County and had come to Pottawattamie County on a change of venue.<sup>112</sup>

——— and ———, *Linn County, July 26, 1863.*— At the anniversary of Cornell College at Mt. Vernon, Iowa, on June 26, 1863, many Copperheads were in attendance wearing badges. These southern sympathizers became so conspicuous that the crowd of about two thousand stopped proceedings to remove the badges. A majority of the Copperheads did not resist when asked to take off the badges, but one man and a woman refused and the mob was obliged to use force. The man was choked into submission, while the woman had her dress badly torn by the mob. After the badges were removed the southern sympathizers were all forced to shout for the Union. As a result six men were arrested for riot, but they were all discharged for want of evidence.<sup>113</sup>

*George Cyphert Tally and ——— Wyant, Keokuk County, August 1, 1863.*— Southern sympathy ran high in Keokuk County during the war and probably reached its climax in what is known as the "Tally War" or the "Skunk River

<sup>111</sup> Correspondence of the writer.

<sup>112</sup> *History of Pottawattamie County, Iowa* (O. L. Baskin & Company, Historical Publishers, Chicago, 1883), p. 168.

<sup>113</sup> *Muscatine Daily Journal*, Vol. VIII, Nos. 286 and 295, Friday, July 3, and Wednesday, July 15, 1863.

War'', in which Cyphert Tally was killed and his friend Wyant seriously wounded. A Democratic mass-meeting was held near South English on August 1, 1863, in which Tally was very prominent. During the meeting word was brought that the Republicans were holding a similar gathering in South English. Tally at once led the southern sympathizers to South English. Threats were made by Tally and his men and returned by the Republicans. Finally Tally drew a revolver and was about to open fire when someone interceded and induced him to put the gun away. Just as soon as the man turned his back Tally drew the revolver again and began shooting. The Republicans opened fire in return. Tally was shot dead, while his friend Wyant was seriously wounded. The death of Tally caused the Democrats to withdraw and organize a large army south of Sigourney. So aroused and determined were they that Governor Kirkwood was forced to call out eleven companies of militia before the "Skunk River Army" could be dispersed. Different estimates as to the number of men in the army range from five hundred to four thousand. Many arrests followed, but no convictions ever resulted. It was considered too expensive to prosecute so many and they were allowed to go free.<sup>114</sup>

*Benjamin F. Alloway, William Spain, and Captain ——— Geary, Keokuk County, August 22, 1863.*—At one of the Copperhead meetings in Keokuk County some northern

<sup>114</sup> *Iowa City Republican* (weekly), Vol. XIV, No. 767, Wednesday, August 5, 1863; *The History of Keokuk County, Iowa* (Union Historical Company, Des Moines, 1880), pp. 443-448; *Report of the Adjutant General and Acting Quartermaster General of the State of Iowa*, January 1, 1863, to January 11, 1864, pp. 687-691; Lathrop's *The Life and Times of Samuel J. Kirkwood, Iowa's War Governor* (1893), pp. 244-252; Eichelberger's *How Governor Kirkwood Cowed a Mob on the Classic Skunk River* in *The Burlington Hawk-Eye*, Sixty-first Year, No. 66, Sunday, August 29, 1909; and correspondence and interviews of the writer.

soldiers came in and began to pull off the Copperhead badges that were so conspicuously displayed. Shooting ensued and Benjamin F. Alloway was mortally wounded. William Spain was shot in the leg, and Captain Geary was wounded in the wrist.<sup>115</sup>

*John Seaman, Appanoose County, February, 1864.*— During February, 1864, the barn of Solomon Howard was burned and suspicion rested upon John Seaman. The loss of the barn, which was worth about \$2,500, was not the only loss, however, for a horse was stolen from Howard at about the same time. Evidence was produced against Seaman and he was brought before E. O. Smith for preliminary hearing and was left in charge of a man named Trescott. That night about eleven o'clock the Vigilance Committee seized Seaman and took him to a secluded place near the widow Fyffe's home just across the Missouri line and there shot him and left him for dead. Seaman was not dead, however, and by morning he had crawled to widow Fyffe's home and found refuge. The news passed quickly back to the committee that Seaman was alive and on the next night, Saturday, they came and took him out to the hog lot and shot him again. This time the wounds were fatal and he was left to the hogs which had torn his body badly by morning. Many people thought that Seaman was not guilty, but on the whole public sentiment supported the committee which lynched him.<sup>116</sup>

— — — — — *and* — — — — —, *Madison County, 1864.*  
— Two Union soldiers returned to Madison County in Sep-

<sup>115</sup> *The Weekly Ottumwa Courier* (New Series), Vol. VIII, No. 33, Thursday, August 27, 1863. For the correct spelling of the name Alloway see *Roster and Record of Iowa Soldiers in the War of the Rebellion*, Vol. I, p. 456 and for the spelling of the name William Spain, see p. 890.

<sup>116</sup> *The History of Appanoose County, Iowa*, (Western Historical Company, Chicago, 1878), pp. 378, 379; and correspondence of the writer.

tember, 1864, and finding southern sympathizers so outspoken, they determined to lynch some of them. At this time two rebel soldiers were staying with some Copperheads in Union Township. When the Union sympathizers learned of the presence of the rebel soldiers they took them to the woods and gave them a stretching by the neck to induce them to tell what their business was in Madison County. Some Union soldiers had just broken up a meeting of the Knights of the Golden Circle in Winterset and they were highly wrought up over the prevalence of southern sympathizers in Madison County. Another family was ordered out of the country because of their outspoken views.<sup>117</sup>

———, *Madison County, 1864.*—The same two Union soldiers, mentioned above, also gave notice to a Copperhead, who had come from Missouri, to leave the country, but he refused. Thereupon they took him to the woods and stretched him up by the neck in order to force him to promise to leave. This time he acceded to their demands.<sup>118</sup>

*Benjamin A. McComb, Wapello County, August 3, 1864.*—George Lawrence and Laura J. Harvey of Rockford, Illinois, were secretly married at Beloit, Wisconsin, early in 1860, and together with Benjamin A. McComb they started westward in a covered wagon. In Wapello County, Iowa, on March 29, 1860, McComb murdered both of his companions and hid the bodies near Ottumwa. The body of Laura J. Harvey was found on March 30, 1860, and Lawrence's body was found in July in a ravine near Ottumwa and identified. On March 2, 1864, McComb was arrested in Davenport and brought to Ottumwa for trial and after a long trial commencing on June 7, 1864, he was convicted of mur-

<sup>117</sup> Correspondence of the writer.

<sup>118</sup> Correspondence of the writer.

der in the first degree and sentenced to be hanged. On August 3, a mob of about two thousand men gathered in the streets of Ottumwa. Of this number a small band of men went to the jail and demanded the delivery of McComb.\* He was forcibly taken out and after being allowed baptism by Father Kreckle he was taken down Court and Front streets. Here the mob halted and after a short parley took the Agency road. About a mile from town they came to a convenient tree. A rope was placed about McComb's neck and preparations were made for hanging.

At this point there was a wavering in the mob's determination which made it possible for a small group of determined men to make a rush and rescue McComb. Those who were in the rescue party were Hiram T. Baker, Chas. C. Peters, a man named Trimble, and Stephen Osborne, who was then marshal. A contest followed and the rope was thrown over the limb of a tree, but the few men worked together so well that they succeeded in getting McComb away and back to Ottumwa. He was then placed in jail under a strong guard. The cause of the failure of the mob to succeed in hanging McComb seems to lie in the fact that it lacked organization, determination, and leadership at the critical moment.

Eleven persons were arrested for this lynching on the charge of riot, but so far as has been discovered none of them were ever convicted. McComb was legally hanged on February 17, 1865.<sup>119</sup>

<sup>119</sup> *Daily Iowa State Register* (Des Moines), Vol. I, No. 74, Tuesday, April 3, 1860; *Ottumwa Daily Courier*, Vol. XXXVIII, No. 75, Saturday, July 18, 1903; *The Weekly Ottumwa Courier* (New Series), Vol. IX, Nos. 28 and 29, Thursday, July 28, and Thursday, August 4, 1864; *The History of Wapello County, Iowa* (Western Historical Company, Chicago, 1878), pp. 446-452; *Burlington Daily Hawk-Eye*, Twelfth Year, Monday, February 20, 1865; *The Cedar Valley Times* (Cedar Rapids), Vol. XIII, Thursday, August 4, 1864; *Muscatine Daily Journal*, Vol. V, No. 231, Tuesday, April 3, No. 239, Thursday, April 12, No. 247, Saturday, April 21, No. 274, Tuesday, May 22, No. 276, Thursday, May 24, No.

——— *Fouch, Mahaska County, August 9, 1864.*— A Copperhead named Fouch paraded Ottumwa on August 9, 1864, wearing Union badges and yet declaring that the Governor and the Government amounted to nothing. A wounded Union soldier took up the matter and after a short struggle tore off the badge which the Copperhead was disgracing. A little later Fouch was again seen with a Union badge on his hat and this time William J. Hamilton tore it off and gave the wearer a good drubbing. Fouch drew a revolver, but it was taken from him. A mob composed mostly of women quickly gathered. Among them was Mrs. Fouch, the mother of the Copperhead, who appeared with a drawn revolver and would have shot Hamilton, but the mob which was composed mostly of northern sympathizers took the weapon from her.<sup>120</sup>

——— ———, *Fayette County, January, 1865.*— The wife of a certain soldier was seduced in Fayette County and her husband spread the news about the country. When the friends of the seducer found it out they banded together and one night in January, 1865, waylaid and brutally beat the soldier. Several members of the mob were detected and as a result the seducer and at least one of his friends were arrested and brought to trial.<sup>121</sup>

*Henry Clay Dean, Henry County, April, 1865.*— Another man who spoke too freely of his sympathy with the South during the war was Henry Clay Dean. Just after the death of Lincoln he was heard to say in public at Old Union Hall,

292, Tuesday, June 12, Vol. VI, No. 25, Monday, August 6, 1860; *Daily State Register* (Des Moines), Thursday, June 16, Saturday, June 18, Sunday, June 19, Wednesday, August 10, Wednesday, August 31, 1864; and correspondence of the writer.

<sup>120</sup> *Burlington Daily Hawk-Eye*, Twelfth year, Saturday, August 13, 1864.

<sup>121</sup> *Daily Iowa State Register* (Des Moines), Vol. III, No. 312, Tuesday, January 17, 1865.

Mt. Pleasant, that it was a good thing that he was killed. The Union men were so aroused that they secured a rope, put it around Dean's neck, and led him out of town.<sup>122</sup>

*Jane Ragan, Cerro Gordo County, April, 1865.*— Upon the receipt of the news of Lincoln's death in Mason City, Cerro Gordo County, Jane Ragan said that she was glad of it and would have rejoiced if her brother had fired the shot. This speech aroused the women of the neighborhood and a few of them gathered, took Miss Ragan to the creek, and gave her a ducking.<sup>123</sup>

———, *Wapello County, April, 1865.*— A Copperhead at Eddyville remarked one day about the middle of April, 1865, that he thought that Lincoln should have died four years earlier and as a result a mob caught him and whipped him until he was nearly dead. He was then ordered to leave the country. The victim confessed that his punishment was deserved.<sup>124</sup>

———, *Guthrie County, April, 1865.*— About the time of the death of Lincoln a woman in Guthrie County made remarks that aroused northern feeling to the lynching point. The women of the community waited upon the southern sympathizer in Judge Lynch's court.<sup>125</sup>

*Henry Mitchell, Lee County, May 4, 1865.*— Another Copperhead, Henry Mitchell of Lee County, got himself into trouble because of certain disrespectful remarks which he made relative to the Union soldiers and the Government. On May 4, 1865, some Union soldiers caught Mitchell, put

<sup>122</sup> Correspondence of the writer.

<sup>123</sup> *Daily Iowa State Register* (Des Moines), Vol. IV, No. 88, Sunday, April 30, 1865; and correspondence of the writer.

<sup>124</sup> *Daily Iowa State Register* (Des Moines), Vol. IV, Nos. 80 and 92, Thursday, May 4, 1865.

<sup>125</sup> *Daily Iowa State Register* (Des Moines), Vol. IV, No. 100, Saturday, May 13, 1865.

flags and bells on him, and made him parade the streets of Ft. Madison. A large mob soon gathered at the depot where the final performances were in progress. After it was all over they told Mitchell to go, and in order to make him move more lively a soldier pursued him and headed him off. Mitchell drew a revolver, but the soldier took it from him and gave him a good drubbing. The mob then followed and taking off Mitchell's coat gave him twenty-five lashes with a wagon whip. Mitchell was forced to get down on his knees and pray for the Government, and to give three cheers for Andrew Johnson. After this he was allowed to go and the mob dispersed.<sup>126</sup>

*James Henderson, Mills County, May 28, 1865.*—James Henderson, for some time a resident of Glenwood, was a saloon keeper, gambler, and loafer. People suspected him of horse stealing, for the country was then overrun by horse thieves and many things seemed to indicate his guilt. On the night of May 28, 1865, a mob of about twelve men took him to a tree west of Glenwood and stretched him by the neck for a time in order to induce him to confess, but this plan failed to produce the desired effect. During the process Henderson was heard to say that if he ever got loose he would kill every member of the mob. This statement caused the mob to hang him and leave him until he was dead. Thus the Vigilance Committee lynched the man with whom the law was seemingly unable to cope. It was claimed that Henderson was the man who had raided the Treasurer's office and attempted to blow it up.<sup>127</sup>

——— *Lacey, Pottawattamie County, June, 1865.*—At three different times hold-ups and robberies occurred in the

<sup>126</sup> *Daily Iowa State Register* (Des Moines), Vol. IV, No. 93, Friday, May 5, 1865.

<sup>127</sup> Correspondence of the writer.

vicinity of Council Bluffs with no arrests following. The man suspected was a man named Lacey. He was finally caught in June, 1865, by a prominent citizen and placed in the hands of the sheriff. The process of the trial was slow, and when the Vigilance Committee became convinced that this man was the one who had caused the trouble, they took him one night and hanged him in the center of the city. No one would file information against Lacey, not even his victims, and the community apparently felt relieved when they saw him hanging dead in the heart of the city.<sup>128</sup>

———, *Mills County, June, 1865.*—The Abolitionists of Mills County hanged a Democrat and alleged horse thief in June, 1865, at Glenwood.<sup>129</sup>

——— *Lake, Hamilton County, 1865.*—For some cause which has not been discovered a man named Lake, living in Hamilton County, was taken out and lynched by whipping during the summer of 1865. Lake was then given orders to leave the country.<sup>130</sup>

*Joseph Dunbar, Hamilton County, July, 1865.*—Joseph Dunbar allowed his stock to run loose and they frequently invaded the fields of his neighbors, with the result that trouble arose over the destruction of property. The neighbors set the dogs on the stock in order to get rid of them, and it seems that Dunbar was suspected of securing revenge by "hamstringing" horses and injuring cattle. One night in July, 1865, prior to the fifteenth of the month, a mob of about a dozen men took Dunbar to the woods and gave him a severe whipping. In trying to defend him, his wife and daughter were very roughly treated. This flog-

<sup>128</sup> Correspondence of the writer.

<sup>129</sup> Quotation from the *Keokuk Constitution* in the *Daily Iowa State Register* (Des Moines), Vol. IV, No. 130, Sunday, June 18, 1865.

<sup>130</sup> Correspondence of the writer.

ging caused the depredations on stock to cease. Some of the most respected citizens of the community were arrested for participation in the lynching.<sup>181</sup>

*Thomas Cole, Marion County, October 18, 1865.*—A robbery occurred near Pella in October, 1865, and Thomas Cole, the suspected man, was caught by the officers at Eddyville and brought to Pella for trial. The robbery caused a loss of \$360 to the victim, and only \$4.05 could be found on the person of the accused. No evidence could be found to convict Cole, and he was discharged. On October 18th a mob of about fifty determined men caught Cole and sought to secure a confession by stretching him up by the neck. They left him up about four minutes and when they cut him down he was unconscious. In this condition he was left in a driving storm which revived him. His friends secured a physician and found that his spinal cord was badly injured.<sup>182</sup>

*James Hiner, Clinton County, October 18, 1865.*—An alleged horse thief, James Hiner, was taken by the Regulators from the De Witt jail on the night of October 18, 1865, and hanged until dead. He was then buried secretly.<sup>183</sup>

———, ———, and ———, *Monona County, April 19, 1866.*—A number of men came over from Nebraska in 1866 and made depredations upon the timber belonging to the people of Monona County. In April a deputation of citizens gave the trespassers instructions to get out of the country. At first they refused to depart and a fight ensued in which

<sup>181</sup> Correspondence of the writer.

<sup>182</sup> *Daily Iowa State Register* (Des Moines), Vol. IV, No. 234, Friday, October 20, 1865; *Dubuque Herald*, Vol. XV, No. 85, Friday, October 27, 1865; and *Iowa City Republican*, Vol. XVII, No. 884, Wednesday, November 1, 1865.

<sup>183</sup> *Daily Iowa State Register* (Des Moines), Vol. IV, No. 247, Saturday, November 4, 1865.

they were persuaded that the best thing for them to do was to return to Nebraska.<sup>134</sup>

*Garrett F. Thompson, Monroe County, June 9, 1866.*—The Vigilance Committee of Monroe County began a systematic search for horse thieves who were operating in that county in 1866, and in June they discovered Garrett F. Thompson, who was supposed to be at the head of the gang. Thompson was a resident of the county living near Blakesburg. During the examination of the prisoner in Albia on June 9th a mob pushed into the court room and seized him. He was placed in a wagon and taken to the woods. The sheriff organized his forces to recapture Thompson, but the mob was organized also and recapture was impossible. A jury of twelve men was selected to try the prisoner. Marshals were appointed and strict guard was kept on the outskirts of the mob. The jury returned a verdict of guilty and recommended hanging as a penalty. The situation which Thompson at first took as a joke became serious when a rope was placed about his neck and prayer was offered for his soul's welfare. After this he was forced to stand on a box while the rope was fastened to the limb of a tree. The box was then pushed from under him. As the rope tightened about his neck he confessed that he had killed one man in his lifetime.<sup>135</sup>

——— *Thompson and ——— Thompson, Monroe County.* — The two sons of Garrett F. Thompson, whose lynching is described above, were lynched some time later, the cause or date of the occurrence not being known.<sup>136</sup>

<sup>134</sup> Quotation from the *Monona Gazette* in the *Daily Iowa State Register*, Vol. V, No. 80, Thursday, April 19, 1866.

<sup>135</sup> Hickenlooper's *An Illustrated History of Monroe County, Iowa* (1896), pp. 174-177; *Centerville Daily Citizen*, Vol. XIII, No. 43, Monday, February 11, 1907; *Daily Iowa State Register* (Des Moines), Vol. V, Nos. 124 and 126, Saturday, June 9, and Tuesday, June 12, 1866; and correspondence of the writer.

<sup>136</sup> Correspondence of the writer.

*John Foster and David Marney, Monroe County, June 14, 1866.*—The Regulators of Monroe County were not satisfied with the lynching of Thompson, but caught John Foster and David Marney, who lived near Orleans in Appanoose County, and brought them to Monroe County. They were charged with horse stealing and on June 14, 1866, in Judge Lynch's court a confession was forced from them. Further details have not been discovered, except that they were then turned over to the authorities.<sup>137</sup>

———, *Warren County, July 26, 1866.*—A Warren County man had a horse stolen some time in June, 1866, and he offered a reward of \$50 for the return of the horse and \$150 for the arrest of the thief. On July 26th two men returned the stolen horse to the owner, mildly stating that the thief was on the prairie to the westward. The inference, of course, is that he was lynched.<sup>138</sup>

———, *Floyd County, July, 1866.*—A mob of boys at Marble Rock, Floyd County, caught a man whom they supposed to be a horse thief, and took him to the woods and stretched him up by the neck until he was nearly dead, in a vain attempt to extract a confession from him. It was later learned that the man was an idiot. The event probably happened some time in July, 1866.<sup>139</sup>

*Simon K. Mann and Charles Ross, Lucas County, 1866.*—Two notorious horse thieves, Simon K. Mann and Charles Ross, were caught by the Vigilance Committee of Monroe County and lynched in 1866. These two men were found

<sup>137</sup> *Daily Iowa State Register* (Des Moines), Vol. V, No. 130, Saturday, June 16, 1866; and Hickenlooper's *An Illustrated History of Monroe County, Iowa* (1896), pp. 177, 178.

<sup>138</sup> *Daily Iowa State Register* (Des Moines), Vol. V, No. 165, Saturday, July 28, 1866.

<sup>139</sup> *Daily Iowa State Register* (Des Moines), Vol. V, No. 169, Thursday, August 2, 1866.

near the Missouri line and the committee hanged them up to trees for a time, thus forcing a reluctant confession from them. They were then turned over to the authorities for prosecution and Ross was given five years in the penitentiary, where he died of paralysis some time later. Mann was sentenced for two years in the penitentiary, but he was pardoned before his term had expired. It is said that after his pardon he went to Missouri where he was finally killed by lynchers.<sup>140</sup>

*Dr. A. L. Robinson, Marion County, November 23, 1866.*—Dr. A. L. Robinson of Pella married one of the prettiest girls of the town in November, 1866, and by so doing aroused the animosity of a number of the Central College students. On or about the 23rd of November Robinson was caught and given a good coat of tar and feathers. As a result he caused the arrest of six of the students, but they were acquitted.<sup>141</sup>

*William Lawn and Patrick Lawn, Mills County, June 14, 1867.*—Two brothers-in-law of James Henderson, who was lynched in Mills County in 1865, escaped being lynched with him because they were in the far West at the time. These men, William and Patrick Lawn, returned from Pike's Peak to Glenwood not long after the lynching of Henderson. Leaving Glenwood one day in June, 1867, they went to Council Bluffs and while there stopped at a hotel. It is said they left Glenwood because of trouble which had begun when they were drunk; and to avoid being arrested they fled to Council Bluffs. The marshal was sent to arrest them on the night of June 14, 1867, and just as he emerged from the hotel with his prisoners, the Vigilance Committee seized

<sup>140</sup> Hickenlooper's *An Illustrated History of Monroe County, Iowa* (1896), p. 173; and correspondence and interviews of the writer.

<sup>141</sup> *Daily State Register* (Des Moines), Vol. V, Nos. 277 and 289, Friday, November 23, and Saturday, December 8, 1866.

the Lawn boys and hurried away with them. They were taken into Mills County where they were lynched. A large public indignation meeting followed the lynching and several men who were suspected of being in the mob were arrested. Indictments were made in Pottawattamie County for kidnapping and in Mills County for murder, but no convictions followed. The cases were prolonged for years and were finally dropped in February, 1872. The mob was composed largely of Southerners.<sup>142</sup>

\_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, *Scott County, September 21, 1867.*—Three thieves raided the cloak rooms of a building where a party was being held at Hickory Grove in Cedar County, in September, 1867, and succeeded in getting away with about \$28 worth of goods. The Hickory Grove Company took up the matter and in a short time found the offenders. Two of the men were strangers in the community, and they had drawn the hired hand of William Hendry into the plot. On Saturday night, September 21st, the Company gave all three thieves a severe whipping and ordered them to leave the country.<sup>143</sup>

*John McRoberts, Bremer County, 1868.*—In order to cope with the increased amount of stealing that followed the war, a "Horse Alliance" was organized in Bremer County. John McRoberts, a returned soldier, with a comrade, decided to visit some girls of Cedar Falls and in order to do this they stole two horses on their way. After riding them for some distance they turned them loose. The "Horse Alliance" took up the matter, pursued the thieves and caught McRoberts in Cedar Falls, his comrade having made his escape. The mob brought him back to Bremer County and on the following morning his body was found

<sup>142</sup> Correspondence of the writer.

<sup>143</sup> *Daily State Register* (Des Moines), Vol. VI, No. 226, Friday, September 27, 1867.

hanging to a tree in a pasture two miles south of Waverly. Although investigation was made, nothing resulted from the attempt to bring the lynchers to justice.<sup>144</sup>

*Adam Cuppy, Shelby County, February, 1868.*—Adam Cuppy had become notorious as a friend of the horse thieves and about February, 1868, a mob lynched him at Harlan. John M. Long was tried for participating in the affair, but he was acquitted after a long trial and after at least one change of venue.<sup>145</sup>

*Charles Brandon, Mahaska County, September 21, 1868.*—“On the night of September 21, 1868, Chas. Brandon, of Mahaska County was taken to the woods and hanged by a crowd of Vigilants from Monroe County. Brandon was accused of horse-stealing. An action was instituted in court for \$10,000 against the lynchers, and \$800 damages awarded. The defendants were Reuben Way, Daniel C. Gladson, Mathew Maddox, B. F. Deats, Lewis Maddox, Wm. Martin, Jas. Hoagland, Geo. Neal, and Wesley May.”<sup>146</sup>

*William Jackson and James Orton, Fremont County, January 18, 1869.*—During the progress of a dance at the home of Milton Holloway near Thurman about the middle of January, 1869, two noted characters, William Jackson and James Orton of Fremont County, attempted to break up the party, but met with opposition. In the struggle Milton Holloway received wounds from which he soon died. Orton was captured at the time, but Jackson made his escape to Nebraska where a few days later he was captured at Weeping Water. On January 17th the two men were placed in the jail at Sidney, where they remained during

<sup>144</sup> *Iowa City Republican*, Vol. XXXIV, No. 125, Thursday, September 11, 1909. See also the *Waverly Democrat* of the same week.

<sup>145</sup> Correspondence of the writer.

<sup>146</sup> Hickenlooper's *An Illustrated History of Monroe County, Iowa* (1896), p. 173.

the following day. That night a mob numbering from fifty to a hundred men came to the jail and demanded the prisoners. Being refused, the mob broke open the jail with sledges and took them out. In Plum Hollow about a mile from town they were both hanged to an oak tree.<sup>147</sup>

*Dirk Vink, Marion County, May 12, 1869.*—Dirk Vink, a Hollander, was for some time a clerk in G. Dingeman's store on Washington Street in Pella, but later he changed his business and went into partnership with Jongewaard. It was claimed that Vink became intimate with Dingeman's wife and trouble soon arose over the charge. A letter was sent to Vink warning him that if he did not leave town he would suffer. Vink took the letter to Mayor Hospers on May 12, 1869. Finding the Mayor busy he went away and called again at about seven o'clock on the evening of the same day. After making the matter known to the mayor he started for home, but no sooner was he outside the building than several men seized him and took him behind the Mayor's office. Here he was beaten and stamped upon after he had been gagged and a sheep's skin had been put over his head. He was then stripped and given a coat of tar and feathers. While this was going on a rope was drawn tightly about his neck to keep him from uttering a cry of distress. The Mayor learned of the lynching, but was too late to give any assistance and the offenders all escaped.<sup>148</sup>

——— *Murdock, Fremont County, November 16, 1869.*—The ferry boat at Nebraska City was boarded on November 16, 1869, by a ruffian named Murdock. Trouble soon arose between him and the officers. Murdock drew a pistol to shoot his opponents, but in this attempt he was disappointed for the men disarmed him. As soon as the ferry reached

<sup>147</sup> Correspondence of the writer.

<sup>148</sup> *Burlington Daily Hawk-Eye*, Tuesday, May 18, 1869.

the Iowa bank Murdock landed, procured another weapon, and opened fire on the ferry boat. He succeeded in wounding several people on board and then fled. He was pursued and caught by five men from Talbert's Saw Mill and placed in an old pork house belonging to Robert Hawk. Here the men attempted to hang him, but he succeeded in getting down and, dragging the rope which was still about his neck, he fled toward the river. He was again caught and this time was hanged until dead to a willow tree about half a mile north of East Port.<sup>149</sup>

*Jackson Fisher, Polk County.*—The Vigilance Committee of Polk County, one Sunday night in the early seventies, caught a man named Jackson Fisher, supposed to be a member of a gang of outlaws, and choked a confession out of him by putting a rope around his neck and hanging him up to a tree several times in succession. He divulged considerable information relative to the other thieves which resulted in twenty-one indictments against three of his family. The first of these cases was taken from Polk to Dallas County on change of venue and the trial occupied about two weeks of time. At this rate it was evident that trial on the twenty-one indictments would prove too expensive to the county, and consequently the other offenders were dismissed. The Fisher family soon left the country.<sup>150</sup>

———, *Muscatine County.*—Some time between 1870 and 1880 a negro came to Muscatine and attempted an assault upon a girl living in that city. A mob gathered and dragged the negro through the streets with a rope around his neck until some determined policemen finally rescued him. Doubtless he would have been killed had not the policemen interfered.<sup>151</sup>

<sup>149</sup> *Burlington Daily Hawk-Eye*, Tuesday, May 18, 1869; and correspondence of the writer.

<sup>150</sup> Correspondence of the writer.

<sup>151</sup> Correspondence of the writer.

*Hiram Wilson, Lucas County, July 6, 1870.*— On July 6, 1870, Hiram Wilson came to Chariton with a horse which he tried to sell, and being a stranger in the town, he was at once suspected of being a thief who had stolen a horse that had recently been advertised. Sheriff Gaylord Lyman identified the horse and attempted to arrest Wilson. Wilson insisted that he was innocent and offered to bring witnesses. The sheriff agreed to go with him to secure the witnesses but Wilson refused, and when the sheriff persisted in his intention to go, Wilson drew a revolver and mortally wounded him. Wilson then mounted a horse which was tied near by and fled, pursued by a mob of townspeople. He took refuge in the woods about a mile from town and a long search followed in which Wilson several times attempted to kill his pursuers. He was finally caught and brought to Chariton where the dying sheriff identified him as the man who had mortally wounded him. About ten o'clock on the night of July the sixth, Lyman died, and as soon as the word of his death passed through the mob that had already gathered, a move was made toward the jail. The door was broken open and Wilson was taken out and hanged from a window in the second story of the court house. Nothing was done toward prosecuting the lynchers.<sup>152</sup>

——— and ———, 1872.— In 1872 a county treasurer and a county auditor were “escorted heavenward” because they would not vacate their offices at the expiration of their terms of office. They were forced to profess repentance and were then loosed. No names are given in the account of this lynching and not even the county where it occurred is stated.<sup>153</sup>

<sup>152</sup> *The History of Lucas County, Iowa* (State Historical Company, Des Moines, 1881), pp. 563-569; and correspondence of the writer.

<sup>153</sup> *Daily Iowa State Register* (Des Moines), Vol. XI, No. 55, Wednesday, March 6, 1872.

*Samuel Minturn, Cedar County, February, 1873.*—“Samuel Minturn, a hard case, as the *Press* calls him, was tarred and feathered at Mechanicsville last week — being decoyed into a retired building by a gang of men who there accomplished their purpose.”<sup>154</sup>

*James A. Bonnell, Harrison County, 1873.*—A circus came to Magnolia about the middle of the year, 1873, to give an afternoon and evening performance. The evening performance was attended by many young people from the country, among whom were Jerome B. Hardy and a lady friend. During the performance a man named James A. Bonnell paid particular attention to the couple and after the performance he followed them to the country. When the couple had reached a certain graveyard, Bonnell attacked them and so frightened Hardy that he fled, deserting his friend who was pursued and finally caught. A fierce struggle ensued in which Bonnell accomplished his purpose. He then fled to Little Sioux where the circus was to give performances on the following day. Here the officers captured him and took him back to Magnolia. A mob took him from the officers, placed a rope about his neck, and was about to hang him when he was rescued by a quickly organized band of men. Bonnell fought like a demon to keep from being lynched and when he was taken into custody again he was a reeking mass of filth. He was tried, found guilty, and sentenced to ten years in the penitentiary. After five years had elapsed the community was shocked to find that the woman whom he had assaulted headed a petition to the Governor for his release. The petition was granted and Bonnell was released.<sup>155</sup>

<sup>154</sup> *Daily Iowa State Register* (Des Moines), Vol. XII, No. 49, Thursday, February 27, 1873.

<sup>155</sup> Smith's *History of Harrison County, Iowa* (Iowa Printing Company, Des Moines, 1888), pp. 288-291.

*Charles Howard, Polk County, December 15, 1874.*— On June 14, 1874, a Scotchman named Johnson was murdered in Des Moines and for a time the deed was a mystery. In August, however, suspicion fell heavily upon Charles Howard and his wife who had lived in the vicinity of the murder, but who had gone to the country immediately afterwards. Howard was arrested on August 28th and brought to Des Moines for trial. The trial was long and tedious, but he was finally convicted of murder in the first degree on December 14, 1874. During the day talk of lynching him became so prevalent that an extra guard was placed about the jail, and the Olmstead Zouaves were called out. They remained about the jail until two o'clock and then seeing nothing unusual, they dispersed and went home. Soon after two o'clock the mob which had so thoroughly planned the lynching arrived at the jail doors. There were about five hundred armed masked men in the mob. Everything was so quietly done that when the leader knocked at the jail door the jailor came and opened it, thinking it was a policeman. An opening was thus made and the mob rushed in, seized the prisoner, and dragged him half naked out of the building. He was hurried to a lamp post in the corner of the court house yard and hanged. The Vigilants then shot his body full of holes and quietly dispersed. Many attempts were made to find the lynchers and prosecute them, but all attempts failed.<sup>156</sup>

*George W. Kirkman, Story County, May 9, 1875.*— A barn belonging to William Zinsmaster of Washington

<sup>156</sup> *The Homestead and Western Farm Journal* (Des Moines), Vol. XIX, Nos. 51 and 52, Friday, December 18, and Friday, December 25, 1874; *The Register and Leader* (Des Moines), Vol. LXI, No. 109, Tuesday, October 18, 1910; *Iowa City Republican*, Vol. XXVIII, No. 7, Wednesday, December 23, 1874; *The History of Polk County, Iowa* (Union Historical Company, Des Moines, 1880), pp. 525-530; *Porter's Annals of Polk County, Iowa, and City of Des Moines* (1898), pp. 531-542; and correspondence of the writer.

Township, Polk County, was burned in December, 1874, and as trouble had existed for some time between Zinsmaster and his son-in-law, George W. Kirkman, the latter was naturally suspected of having been responsible. A mob of one hundred and fifty or two hundred men went to Kirkman's home, but was persuaded to disperse without doing serious violence.

Kirkman later removed to Story County and on the night of May 9th a mob came to his home and took him away with a rope about his neck. He was hanged to a small tree and the mob dispersed. The lynching was preceded by a warning in which Kirkman was told to leave the country or he would be sent to his "long home". Kirkman disregarded the warning and was lynched as a result. Some accounts state that the Vigilance Committee did the lynching; while others declare that it was the result of a family feud that had existed for some time between Kirkman and Zinsmaster, in which case the lynching was probably accomplished by a very small band of Kirkman's personal enemies.<sup>157</sup>

*Archie Smith, Wapello County, June 29, 1875.*—Albert Logan, a policeman in Ottumwa, was shot and mortally wounded by Archie Smith on June 29, 1875. The police soon caught Smith and were taking him to the city hall for preliminary hearing. Plans were quickly and carefully made by a mob, and before Smith could be taken into the city hall, he was seized and hanged to a lamp post. The city marshal was badly injured in an attempt to protect the prisoner.<sup>158</sup>

<sup>157</sup> *Boone County Democrat*, Vol. VIII, No. 13, Wednesday, May 19, 1875; Allen's *The History of Story County, Iowa*, pp. 72-75; *Marshalltown Times-Republican*, Vol. XXXVI, No. 231, Saturday, October 1, 1910; Porter's *Annals of Polk County, Iowa, and City of Des Moines* (1898), pp. 542, 543; and correspondence of the writer.

<sup>158</sup> *Ottumwa Daily Courier*, Vol. X, No. 233, Tuesday, June 29, 1875; and correspondence of the writer.

*Michael Mishiek, Tama County, July 9, 1877.*— The constable of Tama County, Charles Whitney, was shot by Michael Mishiek on the morning of June 9, 1877. Mishiek had stabbed Charles Haring a few days previous and Whitney had gone to arrest him, but met with resistance. Mishiek was finally arrested by several officers and taken to Toledo. Here a mob met them and struggled with the officers for possession of the prisoner. At one time they had a rope around his neck and succeeded in stretching him up almost long enough to extinguish life, but he was rescued. When the officers finally got him in jail they guarded him closely day and night to prevent the mob from again taking him.<sup>159</sup>

———, *Mahaska County, July 30, 1877.*— A farmer from Indianapolis, Iowa, attempted rape on a young girl in a neighboring town in 1877. The women of the community ordered the farmer to leave the country at once and he followed their advice. After things seemed quiet again, he ventured to return, but he found the feeling against him as strong as before. A mob of women seized him on July 30, 1877, and hanged him to a tree.<sup>160</sup>

*Reuben Proctor, Warren County, November 16, 1877.*— While Miss Augusta Cading was lying sick at her home on November 12, 1877, Reuben Proctor entered and attempted to murder her. In the struggle Miss Cading pulled off the mask that Proctor wore and recognized him. He was arrested and tried at Schonberg for attempting to commit murder. A mob endeavored to lynch him on the night of his arrest, Monday, November 12, 1877, but failed. On the sixteenth, however, as the sheriff was taking Proctor to

<sup>159</sup> *Iowa State Register* (Des Moines), Vol. XVI, No. 175, Saturday, July 14, 1877.

<sup>160</sup> *Iowa State Register* (Des Moines), Vol. XVI, No. 190, Tuesday, July 31, 1877.

supper, a mob of masked men seized him and he was hurried across the street, where he was hanged. Few words were spoken and after the man was dead the leader quietly told the members of the mob to return to their homes. Some accounts state that after the mob dispersed Proctor was taken down and that he survived.<sup>161</sup>

*John Mason, Benton County, July 7, 1878.*— John Mason, a bad character living in Benton Township, Benton County, was alarmed on Sunday morning, July 7, 1878, as he was driving along the road, by some ruffians in the brush. He jumped from the buggy and was mortally wounded by a volley from the brush. He was carried to his home and placed in bed. That night as G. F. McCay and Millard F. Tracy sat in the house with the wounded man an armed mob, masked to defy detection, came to the house and shot Mason in bed. Mason is said to have had money under his pillow, but none could be found after the mob left.<sup>162</sup>

*William Hicks, Benton County, June 10, 1878.*— William Hicks and a man named Jones became suspected of petty thieving and were the subjects of the wrath of the Regulators. On the night of June 10, 1878, a mob came to the Hicks home and burned his barn. Hicks came out and was shot by the mob and severely wounded. He fled and escaped from the community. The mob then went to lynch Jones and fired several volleys into his house, but obtained no response. They finally dispersed.<sup>163</sup>

*Doctor H. C. Cohee, Washington County, May 22, 1882.*— Doctor H. C. Cohee became suspected of being the leader of

<sup>161</sup> *The History of Warren County, Iowa* (Union Historical Company, Des Moines, 1879), pp. 462-473; and *The Iowa State Leader* (Des Moines), Friday, November 16, and Monday, December 10, 1877.

<sup>162</sup> *The History of Benton County, Iowa* (Western Historical Company, Chicago, 1878), pp. 380, 381.

<sup>163</sup> *The History of Benton County, Iowa* (Western Historical Company, Chicago, 1878), p. 380.

a gang of horse thieves in Washington County in 1882, and on the afternoon of May 22nd at about three o'clock a mob of nearly seventy-five men went to his home to lynch him. A rope was placed about his neck and he was about to be hanged, but he plead so earnestly that the mob finally allowed him to live, upon his promise to leave the country forever. He left Washington County, but entered suit against the leaders of the mob in Wapello County. He won his case, but received only five cents damages.<sup>184</sup>

———, *Grundy County, 1883*.—“An occurrence took place at Wellsville, Grundy county, during the recent cold weather of this winter which smacked pretty strongly of the return of the whipping-post. Report has it that a fellow called at the house where there was a little boy and his sister as the only ones at home. He hired the little boy to go away and then undertook to take his desired liberty with the girl. But the little boy returned, and taking the alarm from his screaming sister, he secured the attention of a few men who caught the rascal, stripped him of most of his clothing and turned him loose upon the prairie and whipped him with a blacksnake whip as they chased him around through the snow. It was a severe gauntlet for the fellow, but a very good punishment after all, and if applied oftener for such offenses would make an improvement in conduct.”<sup>185</sup>

*John Anderson and Frank Brown, Cass County, June 3, 1883*.—The “Troublesome Creek Outlaws”, or “Crooked Creek Gang”, as they were sometimes called, were making a conspicuous criminal record in Audubon and surrounding counties in the early eighties. John Anderson and Frank Brown had both been indicted and sought revenge on those

<sup>184</sup> Correspondence of the writer.

<sup>185</sup> *Iowa State Register* (Des Moines), Vol. XXII, No. 45, Thursday, February 22, 1883.

whom they thought responsible. On Saturday night, June 3, 1883, these two men came from Atlantic to Wiota. They had been in Atlantic all day drinking and were in such a condition when they reached Wiota that they were ready to make trouble. They went to Sloodt's saloon making threats as they went. They even paraded the streets, shooting their revolvers incessantly. It is said that Anderson went to Wiota to kill Samuel Howlett. Evidently some scheme was laid to kill the outlaws, for as they passed an implement building both were shot and mortally wounded, the bullets coming from different directions and almost exactly at the same time. Evidently one of the shots was fired from the north and the other from the east. Brown declared that the persons who had shot them had followed them from Atlantic. Both men died in a short time.

The citizens had waged war against the outlaws for some time and had killed Carl and Rall Strahl and wounded John Millhollen. Other members of the gang who had not been waited upon by the citizens at the time of the above incident were "Bill" Northgraves, and Robert Van Winkle.<sup>188</sup>

*John Hamner, Madison County, June 3, 1883.*— William Newell, an old soldier living at Winterset, mysteriously disappeared from the vicinity in 1882 and no one seemed to be able to account for his absence. In May, 1883, word came from Anamosa that a man named Charles Pugh, who was confined at that place, had confessed to the fact that he was an accomplice in the murder of Newell. John Hamner had been the chief criminal and had done the deed in order to get Newell's pension money, and the two had buried him in a fence corner in the woods where he was murdered. Hamner had attempted the murder alone one night in 1882. He had secured the money, but on the following morning when

<sup>188</sup> *Iowa State Register* (Des Moines), Vol. XXII, No. 133, Tuesday, June 5, No. 134, Wednesday, June 6, and No. 141, Thursday, June 14, 1883.

he returned with Pugh to dispose of the body they found the man still alive. Thereupon a stone was seized and Newell was killed by mashing his head.

When Pugh was brought back from Anamosa the facts were established. The community was greatly wrought up over the matter and a mob attempted to get Hamner, but failed. Soon after midnight on June 3rd a mob came again to the jail where Hamner was confined and forced their way in, took Hamner out, and hanged him to a tree. He was then shot full of holes and the masked mob rode away. During the attack by the mob the officers appeared at the upper windows, but were frightened back by threats. The mob was so well organized that it would have been a difficult matter to have rescued Hamner since all the streets and alleys were guarded.<sup>167</sup>

*William Barber and Isaac Barber, Bremer County, June 8, 1883.*—The Barber brothers were noted desperadoes in Bremer County and in other regions. The murders of Charles McMahan, John Carlock, and Robert Matheny at Mount Pulaski, Illinois, as well as many other dark deeds, were attributed to them. On September 7, 1882, Deputy Sheriff Shepard of Wadena, Iowa, attempted to arrest them, but he was shot and killed. The Barbers then mounted horses and rode away into the woods. As soon as the deed was known a mob pursued them, but the trail was lost by taking the advice of an accomplice of the Barbers, who put them upon the wrong road. On the sixth of June the Barbers were again seen and officers arrested them at Tripoli. They were placed in the Waverly jail. About eleven o'clock on the night of June 8th a mob headed by Marion

<sup>167</sup> *Iowa State Register* (Des Moines), Vol. XXII, No. 126, Sunday, May 27, No. 129, Thursday, May 31, No. 132, Sunday, June 3, No. 133, Tuesday, June 5, 1883; a clipping from the *Winterset Madisonian*; and correspondence and interviews of the writer.

Shepard, the brother of the deputy sheriff, came to the jail, broke it open with sledges, and took the prisoners out. When the sheriff saw what had been done he called to the mob to take the Barber brothers out of town if they were determined to lynch them. This request was granted and the mob moved out of town about a half mile southeast to Murphy's Grove. The prisoners were given a chance to speak, and prayer was offered while the members of the mob bowed their heads in silence. After the hanging the mob dispersed. No prosecutions followed.<sup>168</sup>

*Simpson Tylor Crawford, Shelby County, July 14, 1883.* — The murder of Mayor Shubbs of Polk City occurred in April, 1883, and was followed by the murder of Postmaster Clingan, on July 10th. The whole country was aroused and great numbers of people started in search of the criminals. By the use of telephones and telegrams the trail was found and a long chase followed. The mob finally drove them into ambush in Elkhorn Grove in Shelby County. This grove was almost impassable on account of the undergrowth, and therefore it afforded good protection. The grove extended over about three hundred acres and in order to make sure of catching the hiding men thorough organization was necessary. The mob surrounded the grove and marched through it systematically. Among the mob was Willis Hallock, a brother of the George Hallock who shot Strahl and Millhollen of the Crooked Creek gang.<sup>169</sup> Hallock was shot by one of the refugees just as he was giving the alarm that he had discovered them. The first day's search, however, proved unsuccessful, so the mob built fires about the grove and encamped. A constant fusillade was kept up all night.

<sup>168</sup> *Iowa State Register* (Des Moines), Vol. XXII, Nos. 137 and 138, Saturday, June 9, and Sunday, June 10, 1883; *The Midland Monthly*, Vol. II, No. 3, September, 1894, pp. 213-216; and *The Burlington Hawk-Eye*, Saturday, June 9, 1883.

<sup>169</sup> See the case of John Anderson and Frank Brown, p. 233.

The search began again early in the morning and continued for three hours before the pursuers again caught sight of the criminals. When the hunted men saw that they were discovered they again tried to defend themselves by shooting. The mob pressed close upon them and as they ran they came to the open country where Levi Montgomery shot one of them named Crawford and wounded him so badly that he died in a few minutes. Before he died he confessed that he was the one who had shot the men in pursuit.

The other desperado succeeded in getting back to the woods again during the disturbance over Crawford, but he was soon rediscovered and forced to surrender under threats of instant death if he resisted. The mob was so wild with excitement that they took one of their own number, Alfred Craig, to be the desperado and shot him. The wound was not serious, however. The mob would have lynched Hardy,<sup>170</sup> the captured desperado, immediately if there had not been strong persuasion and a show of police force. A rope was placed about his neck at one time, but the more conservative members of the mob succeeded in getting it off again. Hardy was then placed in the jail at Harlan, where the mob found him later.<sup>171</sup>

*William P. Hardy, Shelby County, July 24, 1883.*—William P. Hardy, sometimes called James, or William James Hardy, was placed in the Harlan jail when captured at Elkhorn Grove on July 14th. A mob came to the jail on the night of the twenty-fourth and obtained the keys from the wife of the jailor, opened the cell door, and took Hardy out.

<sup>170</sup> Some accounts give his name as William and some as James, while some writers state that it was William James Hardy. One account gives the name as Hardey. A letter from his mother states that his name was William P. Hardy. Crawford was otherwise known as Benjamin Gates and Hardy was sometimes known as Smith.

<sup>171</sup> For references to the sources, see note 172.

He was taken out to the edge of town, hanged to a bridge, and then shot full of holes and dropped into the river. The town was aroused by the ringing of the fire bell, but it was too late to save the prisoner when the people of the town turned out and learned the cause of the disturbance.<sup>172</sup>

————— and —————, *Marshall County, August 5, 1883.*—“Two tramps took a team away from a boy in Gilman, and after severely beating him, drove about the country. They were pursued and captured on the 5th inst., tied to telegraph poles and whipped. The tramps were terribly afraid they would be hung, showing that they were posted on the Iowa way of dealing out punishment.”<sup>173</sup>

*Pleasant Anderson, Wapello County, December 29, 1884.*—A crisis in the history of the bank of Albia, in which Samuel Miller was vitally interested, came in 1882, and the condition of the bank became known to some of the depositors. Merritt McAllister was one who had large deposits in the bank amounting to about \$12,000. When he learned of the condition of the bank he withdrew his money. Instead of depositing it in another bank he was thought to have kept it in his home for a time. On November 6th an attempted robbery occurred in which Christopher McAllister was murdered. The robber met him as he entered the house and

<sup>172</sup> *Iowa State Register* (Des Moines), Vol. XXII, No. 165, Friday, July 13, No. 166, Saturday, July 14, No. 173, Sunday, July 22, No. 174, Tuesday, July 24, No. 175, Wednesday, July 25, No. 176, Thursday, July 26, No. 178, Saturday, July 28, No. 180, Tuesday, July 31, No. 181, Wednesday, August 1, No. 187, Wednesday, August 8, 1883; *Charles City Daily Intelligencer*, No. 157, Saturday, January 12, 1907; *The Audubon Times*, Vol. V, No. 11, Friday, July 20, No. 12, Friday, July 27, No. 13, Friday, August 3, No. 14, Friday, August 10, 1883; *Biographical History of Shelby and Audubon Counties, Iowa* (W. S. Dunbar & Company, Chicago, 1889), pp. 686-692; *The Burlington Hawk-Eye*, Sunday, July 15, Tuesday, July 17, 1883; and clippings and correspondence of the writer.

<sup>173</sup> *Iowa State Register* (Des Moines), Vol. XXII, No. 190, Saturday, August 11, 1883.

killed him in order to get to the money, which was thought to be kept in Merritt McAllister's room. Arriving at Merritt's door he was again frustrated. Merritt knew the voice was strange although the robber feigned that he was Christopher. He tried to make entrance to the room, but his life was threatened so emphatically that he left the house. It is said that on his death bed Samuel Miller made a confession of the murder and attempted robbery. He gave as his reason that the bank was about to fail and the money which McAllister had withdrawn would save it. The banker died an untimely death, probably on account of worry over his misdeeds and the final failure of the bank.

The people of the town suspected another person named Pleasant Anderson of the murder and attempted robbery, and finally on December 29, 1884, a mob decided to take the law into their hands and punish him. Anderson was suspected of many other crimes besides the murder of McAllister, but it seemed that he had always escaped punishment. The mob, supposedly composed of William Jones, Daniel and William Anderson, cousins of the victim, Jesse and George Fisher, and Floyd Chidester, took Anderson from his home by stealth and drove with him to Jones's school house where a lynch court was formed and Anderson was tried. He was found guilty and sentenced to be hanged. After the sentence was read Anderson was taken in a sled to the scene of the murder of McAllister and hanged to a cottonwood tree in front of the McAllister home.

In his last speech Anderson asked the mob leaders to care for his wife and five children. At 10:30 o'clock that night the sled was driven out from under Anderson and he was left hanging. In this instance is to be found a very clear case of the lynching of a man innocent of the deed for which he was lynched, but perhaps guilty of many others.

The men named above were arrested for the Anderson

lynching; but undoubtedly there were more in the mob than these five men, as one account states that eight men sat as jurymen. No convictions resulted from the attempted prosecution.<sup>174</sup>

*Cicero B. Jellerson*,<sup>175</sup> *John A. Smyth*, and *Joel J. Wilson*, *Audubon County, February 4, 1885*.—Hiram Jellerson, an old man of harmless disposition, lived southeast of Audubon for some time prior to his death which occurred April 25, 1882. He came to a violent death by hanging and the deed was laid at the door of his son, Cicero B. Jellerson, and John A. Smyth and Joel J. Wilson, his two sons-in-law. They were arrested and a long trial followed. Finally a change of venue was granted to Cass County and at this juncture the patience of the aroused public was exhausted and the men were lynched. About two o'clock on the morning of February 4, 1885, a mob of masked men carrying lanterns, numbering according to various estimates, from one hundred to seven hundred and fifty, came to the Audubon County jail and demanded the prisoners. The officers refused admittance so the mob broke open the doors and fought their way to the prisoners. The prisoners fought desperately for their lives and finally Smyth and Wilson were shot, and Cicero B. Jellerson was taken out and hanged in the band stand.

In the struggle Jellerson had confessed to a fellow prisoner that all three were guilty and that they had committed the crime in order to get more money from the old man who was refusing to let them have funds as rapidly as they wanted them. There is little doubt but that they were

<sup>174</sup> *Ottumwa Weekly Courier*, Vol. XXVI, No. 39, Wednesday, December 31, 1883; *Iowa State Register* (Des Moines), Vol. XXIII, No. 309, Wednesday, December 31, 1884; Vol. XXIV, No. 1, Thursday, January 1, No. 2, Friday, January 2, No. 4, Sunday, January 4, No. 6, Wednesday, January 7, 1885; and *Iowa City Daily Republican*, Vol. IX, No. 79, Friday, January 2, 1885.

<sup>175</sup> Some accounts give the name as Cicero C. Jellerson.

guilty. The mob dragged the two dead bodies out of the jail and hanged them to fence stringers.<sup>176</sup>

*Byron Lord, Muscatine County, May 2, 1885.*—Byron Lord was deputized to aid in the protection of some liquor which was seized by the Temperance Alliance in Muscatine on May 1, 1885, and consequently he received the ill-will of many of the men who favored the liquor traffic. On the night of May 2nd he was openly attacked by a mob. Clubs and stones were used freely and he was forced to draw a pistol to protect himself. On the next day Lord was arrested for carrying the weapon, but was soon discharged. At the time of his arrest the mob desired to get him, but failed. Only a short time after this the mob attacked his home, but when he came down stairs to investigate they had left. Rewards were offered for the conviction of any persons who were in the mob, but so far as has been discovered no one was convicted.<sup>177</sup>

*Finley Rainsbarger and Emmanuel Rainsbarger, Hardin County, June 5, 1885.*—“The Rainsbargers” had made a bad record in Hardin County and they became suspected of many crimes. In 1884 Enos Johnston was murdered and Nate and Frank Rainsbarger were arrested and placed in confinement at Marshalltown. In June, 1885, Doctors Underwood and Riedenour<sup>178</sup> were attacked in the darkness as they drove along the road. The Rainsbargers had threatened them previous to the attack and suspicion rested upon

<sup>176</sup> *Biographical History of Shelby and Audubon Counties, Iowa* (W. S. Dunbar & Company, Chicago, 1889), pp. 686-692; *Centerville Daily Citizen*, Vol. XIII, No. 43, Monday, February 11, 1907; *The Iowa State Register* (Des Moines), Thursday, February 5, 1885; *The Burlington Hawk-Eye*, Thursday, February 5, and Friday, February 6, 1885; *Iowa State Register* (Des Moines), Vol. XXIII, No. 103, Tuesday, April 29, No. 104, Wednesday, April 30, 1884; and correspondence of the writer.

<sup>177</sup> *The Iowa State Register* (Des Moines), Tuesday, May 12, 1885.

<sup>178</sup> *The Iowa State Register* gives the name of Dr. G. H. Ritenour.

them. Accordingly Finley, Emmanuel, and William Rainsbarger were arrested and confined at Eldora. William secured his release, but the others were retained. About one o'clock on the morning of the 5th of June a large mob came to the jail, battered down the doors with battering rams and sledges, and lynched the Rainsbargers. They fought to the last moment against the mob. Emmanuel was shot before he was taken from the cell and Finley escaped from the building, but was shot outside before he could get away. Both bodies were left on the outside full of bullet holes for the eyes of the curious who came on Friday morning to see them.<sup>179</sup>

*John H. McKenzie, Adams County, April 3, 1887.*—Some slight trouble arose between J. H. Riggs and John H. McKenzie, an Irish-Canadian, which proved in its later developments to be very serious. Riggs was finally shot in a quarrel and McKenzie voluntarily gave himself up to the officers.

The citizens were already much wrought up over the Perigo case, which had hung in the courts for four years. Fearing that McKenzie would finally escape, a group of citizens, numbering from twenty-five to one hundred, decided to take the law into their own hands and lynch him. They came to the Corning jail on April 3, 1887, and after battering the doors down and securing McKenzie, they took him out and hanged him to a maple tree near by. The mob showed thorough organization. Each man was called by a number and no names were spoken during the proceedings. The attack on the jail occurred about two o'clock in the

<sup>179</sup> *The Eldora Herald*, Vol. XIII, No. 38, Wednesday, June 17, 1885; *The Iowa State Register*, Friday, June 5, Saturday, June 6, 1885; *Dubuque Times-Journal*, Vol. I, No. 99, Wednesday, January 16, 1907; *The Burlington Hawk-Eye*, Saturday, June 6, 1885; *The Eldora Weekly Ledger*, Vol. XX, No. 23, June 11, 1885; and correspondence of the writer.

morning and each man wore a mask to prevent identification. Mounted pickets were placed about the jail yard to prevent the citizens from rescuing the prisoner. The many attempts at rescue failed because of the efficient work of the guards. As the mob dispersed the captain told all of them that the work of the night must remain a secret forever and if any one dared to divulge it, he would be treated as McKenzie had been.<sup>180</sup>

*James Reynolds, Decatur County, August 14, 1887.*—An assault upon Mrs. Noble who lived near Leon caused the arrest of James Reynolds and his confinement in the Leon jail. An attempt was made to lynch Reynolds when he was arrested, but the attempt was unsuccessful. About 1:30 o'clock on Sunday morning, August 14th, 1887, a mob of thirty-five or more men went to the jail and broke it open to get Reynolds. While a portion of the mob worked to get into the jail a guard of men was stationed about to prevent anyone from interfering. When the mob got into the jail they did not readily find the prisoner and accused the sheriff of having him concealed in his own house. The mob moved toward his house to get the prisoner, but the sheriff threatened to shoot the first one who should make the attempt and they returned to make further search through the jail. In a short time the prisoner was found and taken out to a railway bridge and hanged to a stringer. Reynolds was given a chance to speak in his own defense, but he refused to say anything and submitted meekly to the execution. The mob dispersed quietly after the lynching.<sup>181</sup>

*Olaf, Taylor County, June 29, 1889.*—An Indian tramp

<sup>180</sup> *The Burlington Hawk-Eye*, Tuesday, April 5, 1887; *The Iowa State Register* (Des Moines), Tuesday, April 5, 1887; and correspondence of the writer.

<sup>181</sup> *The Burlington Hawk-Eye*, Wednesday, August 17, 1887; *The Daily Iowa Capital* (Des Moines), Vol. IV, No. 292, Monday, August 15, 1887; and *The Iowa State Register* (Des Moines), Wednesday, August 3, 1887.

named Olaf assaulted Mrs. Frank Glassman of Taylor County on June 29, 1889. Mrs. Glassman screamed so loud that her husband hurried to her rescue and attempted to kill Olaf, but some neighbors who had arrived prevented him from doing so. Olaf was placed in the jail at Bedford, and that night a mob organized at a livery barn near the Elmwood Hotel and went to the jail. The mob of about seventy-five men demanded the keys of the sheriff, but the demand was refused. The mob then began to work on the jail to force their way in. In a short time they had a rope around Olaf's neck and hanged him to a tree in the court house yard. Only one masked man was noticed among the mob. Many gathered when the disturbance began and probably as many as five hundred people witnessed the lynching. Olaf gave his address as Sioux City during the preliminary hearing that afternoon.<sup>182</sup>

*George Ackleson, Madison County, May 19, 1891.*—A hired man of Porter Tomlinson of Monroe Township, Madison County, whose name was George Ackleson, was accused in May, 1891, of no small amount of malicious mischief. When Clarence Morton, a cripple, had a saddle cut to pieces the blame was thrown on Ackleson. Although he was a boy of only sixteen years of age, the citizens of the community regarded him as a bad character and attempted to use correctional force. A small mob caught him on a false pretext on the night of May 19th, and under cover of revolvers he was forced to go with them from Tomlinson's house to a tree near by. A rope was placed about his neck and he was asked to confess to the cutting of Morton's saddle. He declared that he knew nothing of the affair and even though he was pulled up by the neck several times he would not con-

<sup>182</sup> *Iowa City Daily Republican*, Vol. XIII, No. 203, Tuesday, July 2, 1889; *The Iowa State Register* (Des Moines), Tuesday, July 2, 1889; and correspondence of the writer.

fess. He had been blindfolded during the proceedings, but the cloth slipped down to such an extent that he was able to identify some of the men who were in the mob. After making several attempts to extract a confession and failing, they took him back to the house, thrust him through the door, and dispersed.

Ackleson swore out warrants against eight men whom he thought were in the mob. Those arrested were: Jap Huston, a man of about forty-five, Iver Austin, Malle and Dent Foster, Frank Orr, James McKinney, and Frank Tomlinson. Ackleson was so injured about the neck that he was unable to work for several days.<sup>183</sup>

—— *White, Muscatine County, about 1892.*— About the year 1892 Reverend White came to Muscatine to give an anti-Catholic lecture and he so aroused the citizens that they stoned him in the streets. No permanent injuries resulted from the attack of the mob and no attempt was made to prosecute the participants.<sup>184</sup>

*Taylor Hobbs,*<sup>185</sup> *Keokuk County, May 22, 1892.*— Taylor Hobbs mistreated his wife so often and so shamefully that finally on May 22, 1892, a deputation of citizens gave him a good whipping. That night they hid in the barn to await his return home and about eleven o'clock he returned. The mob was composed of about eighteen or nineteen men and during the administration of the whipping not a word was spoken, but Hobbs was made to understand what the whipping was for. They whipped him so severely that his cries could be heard by the neighbors and they came to his rescue. They were too late, however, as the mob had dispersed. No

<sup>183</sup> *The Madisonian* (Winterset), Vol. XXXV, No. 33, Friday, May 29, 1891.

<sup>184</sup> Correspondence of the writer.

<sup>185</sup> *Iowa City Weekly Republican*, Vol. LII, No. 32, Wednesday, June 1, 1892. The name is here given as Thomas Hobbs.

clue was left by which any member of the mob could be identified.<sup>186</sup>

*William Frazier, Monroe County, March 22, 1893.*— Carbondale was the home of William Frazier and his family. This being a mining district much drinking was carried on among the workmen. Frazier became so frequently under the influence of liquor that his wife refused to live with him longer and went to Hiteman to live with Mrs. Smith, her sister. This desertion angered Frazier to such a degree that he followed her and killed her and her child, and escaped to the woods. The citizens were soon aroused and pursuit began. After a long chase he was captured near Albia. The sheriff put him in a wagon and started for Albia, but the mob seized him and took him back to Hiteman. Here he was hanged to a tree on March 22, 1893. The sheriff and his posse tried to recapture him, but were unable to do so.<sup>187</sup>

*Frank Johnson, alias "Fred Gustaveson", Wapello County, November 21, 1893.*— The little daughter of Jonas Sax of Ottumwa was raped on November 20, 1893, and in a short time Frank Johnson, alias "Fred Gustaveson", was identified as the criminal. He was arrested on the day of the crime and on the following day he was brought before Justice Truitt for preliminary examination. A restless mob moved in the streets, but apparently had no leader for a time. It was not long, however, before a movement was made toward the office of the justice. Even Mrs. Sax is said to have been among them with a rope. One attempt was made to gain the stairway which failed, but the second time they came back with determination and fought their way up

<sup>186</sup> *Iowa City Weekly Republican*, Vol. LII, No. 32, Wednesday, June 1, 1892; and *What Cheer Reporter*, Vol. XI, No. 18, May 25, 1892.

<sup>187</sup> *The Iowa State Register* (Des Moines), Thursday, March 23, 1893; and *Charles City Daily Intelligencer*, No. 163, Friday, January 18, 1907.

the stairway and took the prisoner from the room. A rope was fastened about his neck and he was thrown over the stairway. The body hung there for ten minutes, when the rope broke. The mob would have swung it up again had they not found that the man was dead. The city officers and a committee from the mob made an examination before the excited mob was satisfied that he was dead.

When the body was examined it was found that the name "F. O. Johnson" was tattooed on his arm. The mob soon dispersed and quiet was restored. Attempts were made to prosecute different men in the mob, but nothing resulted.<sup>188</sup>

"Reddy" Wilson, *Harrison County, April 30, 1894*.—A habitual criminal, "Reddy" Wilson, met his fate at Missouri Valley on April 30, 1894. He had been in the Nebraska penitentiary several times and each time he was released he returned to his old life. He and a man named Davis were at the house of William Henderson one night in April when the marshal came to arrest him. The marshal, Adna Whitney, took J. B. Lyons and J. Deal with him to make the arrest. They entered the house and found Wilson and Davis in bed as if they were asleep. When the officers appeared in the room Wilson threw down the covers, presented two pistols and ordered them to throw up their hands. Whitney was not to be baffled and he reached for his pistol, but was immediately shot dead. Lyons was also wounded. In the fight Wilson was badly wounded and could not make his escape, but Davis succeeded in eluding the officers. Wilson was captured and placed in jail on Monday, April 30th. That night a mob came and took him from the jail and hanged him. The mob had formed at the school house and from thence about midnight they went to

<sup>188</sup> *Ottumwa Weekly Courier*, Vol. V, No. 32, Thursday, November 23, 1893; *The Eddyville Tribune*, Vol. VII, No. 22, Friday, November 24, 1893; and *The Sun* (Ottumwa), Vol. IV, No. 25, November 23, 1893.

the jail. The men in charge of the electric light plant were forced to close the plant and thus cut off all light from the city. The mob then proceeded to their task. The ropes with which Wilson was hanged were taken from the street lights. Identification was not possible, since everyone in the mob, which numbered perhaps seventy-five, was masked. The next morning the people of the city beheld Wilson hanging from the stairway of the city hall, and on his dead body was this sign: "Public Library".<sup>189</sup>

*H. H. Himebaugh, Hamilton County, November 26, 1894.* — "A horse whipping was administered by Mrs. Barney Kelly, wife of an insurance agent, assisted by her sister, Miss Agnes Clark, aged 19, to H. H. Himebaugh, also an insurance agent. They met him at Second and Seneca streets and Mrs. Kelly struck him several blows in the face. He started into a drugstore, when Miss Clark seized the whip, and went after him, slashing him right and left over the head and shoulders, causing the blood to flow freely. The alleged cause of the whipping was that the women had been slandered by Himebaugh."<sup>190</sup>

*Orlando P. Wilkins, Dallas County, March 6, 1895.*— The Adel bank robbery of March 6, 1895, was so sensational that the city was immediately aroused and many people pursued the fleeing robbers. The robbery occurred in daylight and the resistance of the bankers caused shooting which immediately warned the citizens of the event. After wounding the bankers the two robbers secured a sack of money, placed it in a buggy and fled, shooting at everyone in sight as they went. All horses available were pressed into service and the robbers were followed to the woods. Just as they

<sup>189</sup> *The Logan Observer*, Vol. X, No. 1, May 3, 1894; *Missouri Valley Times*, Vol. XXVI, No. 42, Thursday, May 3, 1894; and correspondence of the writer.

<sup>190</sup> *Iowa City Weekly Republican*, Vol. LV, No. 5, Wednesday, November 28, 1894.

neared the woods the mob came close enough to succeed in wounding their horses. This caused the robbers to abandon the buggy and run for their lives. One bandit named Charles W. Crawford ran for the woods, but the other, Orlando P. Wilkins, hid in a barn. Crawford was soon captured, but to get Wilkins was not an easy matter without endangering life. Finally the mob forced Crawford to set fire to the barn where his partner was concealed. When Wilkins could not endure the heat longer he came out, much burned, but he refused to surrender. The mob shot him immediately.

Crawford was taken to jail where an attempt was made to lynch him that night. Wilkins had not been out of the Minnesota penitentiary more than six months. He seems to have been an old criminal. Crawford was a young man and evidently was intimidated into the crime.<sup>191</sup>

*Joseph Brewer, Madison County, April 4, 1900.*—As John Cunningham, a wealthy farmer, was returning home from Winterset on March 3, 1900, he was held up and robbed on the North River bridge within a half mile of his home. A short time afterwards Frederick Daily and Joseph Brewer were arrested in Des Moines and taken to Winterset charged with robbery of Cunningham. Some of the money and the watch stolen from Mr. Cunningham were found on Daily. The two robbers had been staying at the home of Mrs. Heckle of Crawford township. They remained in confinement until April 4th when they broke jail and escaped. The whole country was aroused and there was a vigorous pursuit. Brewer was recaptured in the woods near the Heckle home. Since all the money taken from Cunningham could not be found, the mob sought to find out from the prisoner where the remainder was. In

<sup>191</sup> *Dallas County Record* (Adel), Vol. XXVII, Nos. 9 and 10, Friday, March 8 and Friday, March 15, 1895.

order to get him to tell they finally had to stretch him up by the neck, whereupon he confessed that Mrs. Heckle had it. The mob then went to get Mrs. Heckle.<sup>192</sup>

*Mrs. ——— Heckle, Madison County, April 4, 1900.*— As soon as the mob had forced the confession from Brewer they went to Mrs. Heckle's home and demanded the money. She refused to give it to them, whereupon they took her out to a tree and stretched her, with the result that she was persuaded to confess. She was released after getting the money and Brewer was turned over to the authorities. Mrs. Heckle brought suit against the persons whom she thought were involved in the lynching, but the case was lost. The case was tried in the district court under Heckle vs. Cunningham-Robinett *et al.* The accused were Edward Duff, G. B. Robinett, Thomas and Daniel Murphy, Daniel Miles, P. J. Cunningham, James McNamary, and William Stevenson.<sup>193</sup>

*A. J. Pulse, Pocahontas County, 1901.*— In the fall of 1901 the citizens of Laurens took A. J. Pulse into their charge for correction. He had been known to beat his wife shamefully and to refuse to support her. He mistreated his children also, it is said, and finally some citizens came to his home one night and gave him a coat of tar and feathers. No attempt was made to prosecute the lynchers for they were so secret in their operations as to escape detection.<sup>194</sup>

<sup>192</sup> *The Reporter* (Winterset), Vol. XV, No. 14, Thursday, April 5, 1900; *The Winterset Madisonian*, Vol. XLIX, No. 27, Thursday, April 5, 1900; *Winterset Review*, Ninth Year, No. 434, Wednesday, April 4, 1900; and correspondence of the writer.

<sup>193</sup> *The Reporter* (Winterset), Vol. XV, No. 14, Thursday, April 5, 1900; *The Winterset Madisonian*, Vol. XLIX, No. 27, Thursday, April 5, 1900; *Winterset Review*, Ninth Year, No. 434, Wednesday, April 4, 1900; and correspondence of the writer.

<sup>194</sup> Correspondence of the writer.

——— *Adams, Black Hawk County, 1901.*— Elder Adams came to Waterloo in 1901 to give some lectures on Dowieism in which he became offensive to the people. He was taken out and egged for his obnoxious speeches.<sup>195</sup>

——— *Adams, Black Hawk County, July 16, 1901.*— Soon after the first egging of Adams he again indulged in his offensive remarks and as a result he was again egged on July 16, 1901. The police made arrests among the mob in order to disperse it. Whether there were any prosecutions has not been learned.<sup>196</sup>

*Detective* ——— *Downey, Emmet County, February, 1902.*— “Three men have been arrested for complicity in the whitecapping raid at the Emmet House. The men are Charles Peterson, Wm. Sanford and L. Young. Peterson and Sanford were given preliminary examination and were bound over to the grand jury. The offense was taking Detective Downey of Chicago from his room in the hotel, horse whipping him and driving him forth onto the prairie, where he nearly froze to death. He was suspected of being a ‘Spotter’ seeking evidence against the saloons.”<sup>197</sup>

*Frank Brown, Muscatine County, March 28, 1903.*— Harry Holtzhauer was shot and severely wounded by Frank Brown, a negro, at Muscatine on March 28, 1903. The news spread rapidly and a mob of perhaps fifteen hundred men gathered. After shooting Holtzhauer, Brown had fled, pursued by several policemen and citizens. He was soon caught and a score or more men fell to beating him. The police force was immediately increased and the negro's life was saved only by attacking the mob with clubs and beating some of them down. A large mob, angered at the attack of

<sup>195</sup> *The Beveille* (Rolfe), Vol. XIV, No. 3, Friday, July 19, 1901.

<sup>196</sup> *The Beveille* (Rolfe), Vol. XIV, No. 3, Friday, July 19, 1901

<sup>197</sup> *The Beveille* (Rolfe), Vol. XIV, No. 33, Friday, February 14, 1902.

the police, followed them as the prisoner was taken to jail and threatened to lynch Brown. A special force of policemen was placed at the jail and Brown was saved.<sup>198</sup>

*Green Lee and Mrs. Green Lee, Henry County, August 2, 1905.*— During the time when a citizen named Victor Lee was making arrangements to take his wife to the insane asylum, the people of the community became convinced that the woman was not insane, but that Lee was simply endeavoring to get rid of his wife. Victor Lee and Green Lee, his father, took Mrs. Lee to the asylum on August 2, 1905. Green Lee returned that night to New London and was met by his wife at the station. As the train pulled in Mrs. Green Lee mounted the platform of the coach to greet her husband. A mob of indignant citizens had gathered and they egged Mr. and Mrs. Lee, as well as the brakeman who happened to be standing near them.<sup>199</sup>

*James Cullen, Floyd County, January 9, 1907.*— The Busse murder trial which had been so long in the courts taxed the patience of the public to the utmost. About the time that the case seemed about to result in Busse's release James Cullen murdered his wife and step-son. The murder was a cruel one and when Cullen was arrested public feeling rose high against him. On the night of February 9, 1907, a large mob went to the jail to lynch Cullen. The light wires were cut and the town was left in darkness and the outskirts of the mob were closely guarded by pickets. The jail doors were battered down with a railroad rail and Cullen was taken out. He begged for mercy, but obtained none from the frenzied mob. Seeing that they intended to

<sup>198</sup> *The Burlington Hawk-Eye*, Sixty-fourth year, No. 247, Sunday, March 29, 1903.

<sup>199</sup> *The Mt. Pleasant Journal*, Friday, August 4, Tuesday, August 8, 1905; and *The Burlington Hawk-Eye*, Sixty-seventh year, No. 39, Thursday, August 3, 1905.

kill him, Cullen fought for his life, many times breaking loose, but each time being recaptured. His hands were finally tied and he was hustled along the streets while the mob cried "We will have no more Busse affairs." When the mob reached the river bridge they placed a rope around his neck, and this was thrown over a stringer. Cullen was then given a chance to speak, but he refused. Prayer was offered in his behalf and he was then swung up until he was dead. Attempts were made to prosecute the leaders of the mob, but no evidence could be brought to convict them. The people of the community were too much in sympathy to make it possible to convict anyone although no doubt many people knew who were in the mob.<sup>200</sup>

—— Walker and —— Johnson, Louisa County, August 30, 1907.— On August 30, 1907, two white men, Jack Beade and "Spot" O'Connor, were playing craps at Columbus Junction, with three negroes, Walker, Johnson, and another negro whose name was not given. They soon disagreed and began to fight. About fifteen shots were fired and both Beade and O'Connor were wounded. The shooting aroused the town and the negroes were pursued. One of them was severely wounded by a farmer who shot him as he ran. A rope was put around the neck of the wounded negro and the mob was about to hang him, but this was pre-

<sup>200</sup> *The Des Moines Capital*, Vol. XXIII, No. 290, Wednesday, January 9, No. 291, Thursday, January 10, and No. 292, Friday, January 11, 1907; *Charles City Daily Intelligencer*, No. 154, Wednesday, January 9, No. 155, Thursday, January 10, No. 156, Friday, January 11, No. 158, Monday, January 14, No. 160, Wednesday, January 16, No. 161, Thursday, January 17, No. 164, Saturday, January 19, No. 165, Monday, January 21, 1907; *The Des Moines Daily News*, Vol. XXVI, No. 62, Wednesday, January 9, No. 63, Thursday, January 10, No. 64, Friday, January 11, 1907; *The Register and Leader* (Des Moines), Vol. LVII, No. 192, Thursday, January 10, No. 193, Friday, January 11, No. 194, Saturday, January 12, No. 195, Sunday, January 13, No. 197, Tuesday, January 15, 1907; and *Dubuque Times-Journal*, Vol. I, No. 93, Thursday, January 10, No. 97, Sunday, January 13, 1907.

vented by the officers who then took him to jail. Two of the three negroes, Walker and Johnson, were captured. After they were put in the jail a mob forced the door and carried a rope in to hang the men, but evidently their courage failed at this point for no one could be found to lead the mob in doing the deed.<sup>201</sup>

*E. H. Rockwell, Van Buren County, January 17, 1908.*—E. H. Rockwell was the editor of *The Farmington Herald* in 1908 and it seems that some of the citizens of the town made objection to certain articles that he published. In fact the citizens were so aroused over the publications that a small mob caught Rockwell on the evening of January 17, 1908, put him in a conveyance, and took him to the park. Here they administered a coat of tar and feathers. The men were masked, but Rockwell thought he could detect who were in the mob and sued them for damages. The case was prolonged for some time and was finally taken to the Supreme Court, but was lost. The case was entitled *E. H. Rockwell vs. B. F. Ketchum et al.*<sup>202</sup>

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<sup>201</sup> *The Burlington Hawk-Eye*, Sixty-ninth year, No. 62, Saturday, August 31, 1907.

<sup>202</sup> *The Farmington News*, Vol. XIV, No. 29, Tuesday, January 21, No. 30, Friday, January 24, No. 45, Tuesday, March 17, 1908; *Rockwell vs. Ketchum et al.*, in *The Northwestern Reporter*, Vol. CXXVIII (permanent edition), pp. 940-944; and *Abstracts and Arguments in The Supreme Court of Iowa*, P-R, September Term, 1909, pp. 1-443; May Term, 1910, pp. 1-89; January Term, 1910, pp. 1-77 (page references are here given to the briefs).

## EARLY LAND CLAIMS IN DES MOINES COUNTY

[The article on early land claims in Des Moines County given below was first printed in the *Wisconsin Territorial Gazette and Burlington Advertiser* (Burlington) under date of September 7, 1837. It is now reprinted literally from Vol. I, No. 9, of that paper which was published at Burlington, then the capital of the Territory of Wisconsin.—EDITOR.]

A *claim* is a matter of great importance in this new territory. In most instances, a claim is the only home of the settler. With regard to them, then, this hope is entertained — 1st., that the general government will pass a pre-emption law, giving to the settler a special privilege in regard to the public land he occupies, to a certain extent; or, 2d — if this be not done by the general government, that a common sense of justice and equity throughout the community, will allow the settler to buy at the public sales to a reasonable extent (say a half section) without competition. Now, whatever strengthens this hope, is a matter of general congratulation, and whatever impairs it, is viewed with uneasiness and alarm.

It is obvious that some reasonable regulations among the settlers themselves, with regard to claims, was indispensable. At a very early period, therefore, of the settlement of the country in the region of Burlington, (Des Moines county,) a number of persons having settled, or being about to settle on the public lands, near the Flint Hills and its vicinity, met together, in order to agree upon by-laws and regulations respecting claims. The first meeting took place, agreeably to previous notice, on the 12th of October, 1833, and Mr. *Isaac Teller* was appointed chairman, and Messrs. *John Grimsley* and *R. Redman*, secretaries. The first thing done at this meeting, was to define what must be done on a

portion of the public lands in order to constitute a claim. The definition is as follows, viz:

*“Resolved, That there shall be a cabin built, or five acres of land broke, or five acres inclosed by a good fence, within six months from this date; and not to be left unoccupied for six months at any time, without being subject to be retaken. The claim shall be defined by marks or bounds plainly set.”*

The second thing was to specify the quantity of land which a claim should not exceed, with other circumstances. This specification is contained in the 2d resolution of the first meeting, and is as follows:

*“Resolved, That no one person shall claim more than a half section, and not more than a half mile fronting the river or prairie.”*

A number of other resolutions were agreed to at different meetings, all of which have been printed in pamphlet form at the Burlington press, (1837,) and circulated, under the title of “By-laws of the Association of Settlers of Des Moines county, to which is appended the names of the members. By order of the Association.”

Quotations are made from this pamphlet, in which every thing respecting claims is to be found. The two resolutions above quoted contain the vitals of the claim system. Now, by some Providence or other, the records of this first meeting, (as the writer of this article has been informed,) were not to be found, and not until lately have been brought to light, though with regard to the import of them there seems to have been no want of information; for at every subsequent meeting the resolutions of the first are referred to and recognized as obligatory. Very soon, however, after these resolutions got out of the way, another idea was added to them by *common fame*, viz: that a man could *buy* as many claims as he pleased, although he could *make* but one. This idea was propagated, and came soon to be generally

thought correct. Hence a system of claim speculation was engaged in, even by those whose names are appended to the resolutions above stated, and who, therefore, can hardly have failed to know they were going beyond what was authorized. Claim speculations went on; a large number were engrossed by a few moneyed individuals and held up at very high prices, and many sales effected, while, from the resolutions of the first meeting, these speculators had not the shadow of right to buy or sell; but on the contrary, the persons coming into the country to make settlements, had a right to occupy them without any consideration whatever, except a compliance with the first and second resolutions of the first meeting. It is true, that at a public meeting, which took place at the house of Butler Delashmutt, on the 7th August, 1836, "for the purpose of adopting measures the more effectually to secure them (the citizens of Des Moines county) in the peaceable possession of their claims, agreeably to the resolutions adopted the 12th October, 1833, the following resolution was adopted, viz:

*'Resolved, That claims may be transferred; and when sold for a valid consideration the sale shall be valid and binding, and the purchaser possesses all the rights and privileges of the first occupant: Provided, however, that if the purchaser fail or refuse to make, or cause payment to be well and truly made, according to the specifications of the contract, the said contract shall be void, and the claim so sold shall revert back to the seller.' "*

But this resolution, it is evident, refers, and by necessary implication, is limited to the one claim, or half section, to which every one is restricted, "agreeably to the resolutions adopted 12th October, 1833." It is not known that any interpretation other than the above has been given to this resolution; but if any one were to lay hold of it as authorizing claim speculations, such as have been practised in this

part of the country, it need only be said of him, that he has very little regard for the judgment men will form of his understanding.

The fundamental resolutions of the association having now been stated, and also the speculation in claims which are obviously not at all authorized by those resolutions, it seems almost superfluous to ask, will this unauthorized system of speculation in claims be countenanced and sustained by the settlers on the public domain? If this question were answered in the affirmative, it would be the total ruin of all the by-laws of the association; and if those men whose names are appended to the by-laws were to join in such a decision, it would be obviously a most insupportable violation of their pledged honor; for they say, in their final resolution on the 6th page of the pamphlet, that "we do heartily agree and pledge ourselves to each other, faithfully to abide by and strictly enforce the observance of the foregoing resolutions." It cannot, therefore, even be supposed by the writer, that such a decision will be made, at least by those referred to.

The meeting held on the first Saturday in March, 1837, prescribes, in several resolutions, the manner in which disputes respecting claims are to be adjusted; and those who are to sit in judgment on any case are charged "to hear the whole matter, and decide according to the right and justice of the case, as specified in the foregoing resolutions."

From the by-laws of the association, fairly and obviously interpreted, the writer draws the following conclusions:

1. That to constitute a claim, there must be a cabin built, and five acres broke or fenced.
2. That until it is thus improved it is not a claim, and is incapable of being sold.
3. That if it is not improved within six months, or if, after it is improved, is vacated for six months, it is liable to

be taken by any person capable of holding it according to the by-laws.

4. That no person can hold more than one claim; and, therefore, the practice of holding several, is contrary to the by-laws, and subject to be set aside.

5. That any sale of a claim aside from the one a settler has a right to hold, is not valid, and ought not to be complied with; for the very resolution authorizing the sale supposes him to be the occupant.

6. That any renting of claims to another, aside from the claim he has a right to hold, is not valid.

7. That the occupant of a claim is the owner of that claim, (all others being forfeited,) unless some one else can show a previous right from the by-laws.

8. When a person sells a claim to which the by-laws give him a right, to a person who has a right to hold it, the contract ought to be complied with.

The writer will now set down some of the obvious evils arising out of claim speculations.

1st. It has heretofore prevented, and will continue to prevent, many settlers from coming into the country.

2d. It has, beyond doubt, advanced claims far above what they would have been, if the rules of the association had been observed, so that many have had exacted from them many times more than otherwise would probably have been asked.

3d. The practice exceedingly endangers our ultimately getting our claims; for it is so utterly inconsistent and unbecoming, that it may affect the policy of Congress towards us, and lead that body to view us in the light in which some members have spoken of us on the floor of Congress; and if Congress does nothing for us, it would put into the mouths of citizens of other regions an argument to form themselves into associations to bid off at the public sales, our claims —

that is, "beat us with our own weapons." And it will be impossible to harmonize among ourselves, if this system of claim speculation is sustained — we will fall, (both those who have, and those who have not been involved in their speculations,) an easy prey to those who covet our homes.

4th. The practice will lay us open to vexatious and ruinous law-suits, for many will refuse to pay under a conscious sense of justice to themselves, and to all mankind, what has neither civil law, nor equity, nor the by-laws of the association to sustain it. Persons may be induced to pay such debts for the present, out of a sense of personal danger; but can any one imagine that money or property obtained in this way, would be justified by the laws? This system of speculation, if these views be correct, is most dangerous to those who have engaged in it.

5th. The last evil we will mention, and not the least, is, that it will interrupt, in the most serious manner, that social and kindly intercourse among neighbors, which is among the first enjoyments of life.

*A Settler upon the Public Lands.*

## THE SAC AND FOX INDIANS AND THE TREATY OF 1842

[The account given below of the treaty made with the Sac and Fox Indians at their Agency on October 11, 1842, by Governor John Chambers is copied verbatim from the *Iowa Territorial Gazette and Advertiser* (Burlington), Vol. VI, No. 14, October 15, 1842. The account not only presents the impressions of an eye-witness of the negotiations of the treaty, but it furnishes some interesting sidelights on the character and customs of the Sac and Fox Indians. The text of the treaty of 1842 may be found in Kappler's *Indian Affairs, Laws and Treaties*, Vol. II, p. 546.—EDITOR.]

Leaving Fairfield after breakfast, we drove to the Indian Agency by 12 o'clock, where we found congregated in a common mass from a thousand to fifteen hundred whites and upwards of two thousand Indians. We passed the Indian encampment about a mile east of the Agency. Their tents, (wik-ke-ups,) several hundred in number, and covering a half mile square of beautiful prairie, presented as pretty and romantic a scene as eyes could rest upon. The tents were all new, as indeed were all the clothing and trappings of the Indians — and in this respect their appearance was much more elegant than we had anticipated.

The Sacs and Foxes are perhaps the finest looking Indians on the globe — of large, athletic, and perfect forms, and most graceful carriage — and a brave, high-minded and honorable set of fellows. There are few men in this world equal to the celebrated *Keokuk*, whose commanding oratory raised him even in his youth from the common ranks of his tribe, and placed him without hereditary right, and in despite of all competition, at the head of his nation. Many statesmen in our own government might learn useful lessons in diplomacy, and many of our best orators receive profitable instruction, from this gifted Indian. The young-

er son of Black Hawk is the Adonis of his tribe — and is probably the handsomest man in the world. He is six feet three or four inches high, graceful and elegant in his manners — and although weighing perhaps two hundred, he treads as lightly as an infant. *Kish-ke-kosh*, a chief of much distinction among them, is also a talented and fine looking man — and though as brave as Caesar he is a regular built Brummell exquisite. He usually sports an ebony cane with a gloriously large and bright brass head, which he twirls in his fingers in the most elegant style imaginable, and when sitting rests his chin and lips upon the brilliant ornament, *a la* “the fine old English Gentleman.” He is a smiling chap, and celebrated as a gallant, as your smiling gentlemen usually are. It is rather amusing to witness his efforts to come the polite thing over his brother savages.

Every night the Indian camp was converted into a vast ball room — & every variety of dances known among them, from the “clothing of the dead,” to the flat boat “double shuffle,” were performed by them. The squaws have no part in these amusements, and usually manifest but little curiosity to witness their performance. It is any thing but dancing, according to our notions, consisting as it does of violent stamping upon the ground to the measured beats of a drum — a regular tearing up of the earth — or, as the Mississippi indictment expresses it, “kicking up a d——d fuss generally” — though there is system in it, and we noticed that the dancers preserved excellent time.

The chiefs and braves are the principal performers in these scenes. In addition to the beating of the drum, the dancers are enlivened by perhaps the wildest and most hideous yells that ever issued from the throats of human beings. And although a good christian might think that all Pandamonia had been turned loose upon our prairies, yet, strange to say, there is music in the horrid compound.

When all things are put into full blast — the drum beating — the dancers moving — and the singers yelling — hundreds of Indian dogs join in the delightful chorus, and it is then that the air is made redolent with savage sounds which make the listener quake while he laughs at the superlatively ludicrous character of the whole scene before him. The younger members of the tribe amuse themselves, some by aping the dancers at a respectful distance, and others by wrestling, foot-races, &c. Most of these young rascals have horses of their own, and it was laughable while pitiable to see them abuse the poor animals by running them from morning till night, sometimes in races, and at others without any apparent motive but to “cut a splurge.” This is the only thing we have against the Sacs and Foxes — they have no mercy on horses. The abuse of these noble animals is the meanest sin which any one, white, red or black can commit. It is a great mistake that Indians are stoics, misanthropes, or any thing of the kind. A more sociable, communicative, happy or laughing set of fellows than the Sacs and Foxes do not exist any where. But we believe it not only impossible but impolitic to civilize them. They are happier as they are — and we should regret any attempt to interfere with their domestic policy. Place them beyond the corrupting influences of the white settlements — keep from them that destroyer of human happiness among all colors, the death-dealing “fire water” — and government will then have conferred the best blessing upon the Indians, and the only one for which they will feel thankful.

The treaty was conducted with great dignity and propriety, if we may except the introduction of dragoons to keep out citizens beyond hearing distance. Capt. Allen and Lt Ruff, of the Dragoons are talented and gentlemanly officers, and were present in obedience to orders — but Gov. Chambers certainly believes too much in show, or greatly mis-

takes the character of our citizens, if he deems all this flummery and metal-button authority necessary to the order, dignity or success of a treaty. With this exception, (which we do hold to be most ridiculous and most reprehensible,) we freely unite in giving Gov. Chambers all due praise for his prudent and judicious management of the affair. One or two bands of the Indians had difficulty in bringing their minds to part with their lands, and several days and nights were spent in anxious deliberation before they gave a final answer. This was a natural feeling, and one that did credit to their hearts. They were asked to part with the last of their earthly possessions, to abandon the graves of their fathers, and remove to a new and distant country. But the conviction that there was little or no game in their present country, and that the one to which they were invited abounded in every species that could give pleasure to the chase and profit to success, finally overcame their objections, and the treaty was ultimately accomplished with the unanimous consent of all parties.

While we regard this result as most fortunate for our Territory, we consider it not less so as to the Indians themselves. They will be made independent and comfortable for life. Their annuities will clothe and feed them bountifully. They will be placed beyond the baneful influences of unprincipled whites who drench them with whiskey and then rob them of their money. And they will go to a country abounding in game where they can pursue their favorite pleasures at will and without interruption from their ancient enemies the Sioux.

Here we will take occasion to correct an error which we committed some two or three weeks ago in our speculations upon the probable contingencies upon which the result of the then approaching treaty would depend. We said that although the Indians were willing to sell all their country,

the traders were opposed to such a measure, and would advise the selling of only a portion that they might have the balance to operate upon for a few years longer. This remark was predicated upon reports which came from the Agency during the payment of the annuities. As we now know, from personal observation, that precisely the reverse of this is the fact, we deem it our duty to correct the error. Indeed, but for the activity and influence of Messrs. Sanford, Davenport and Le Clair and the Messrs. Phelps, who exerted every means in their power to harmonize the clashing among the bands, we doubt much whether the purchase of the whole country could have been effected.

To conclude this article, and the subject, for the present, we will state that after camping out a night or two for the mere humor of the thing, we, in company with many others, obtained excellent quarters at the residence of Mr. Smart, the Government Interpreter. Mr. S. has been many years among the Indians, and is a worthy, upright and clever man, and lives most sumptuously. His wife is a very handsome, amiable and interesting Sac and Fox woman — and he has a couple of very sprightly little daughters, about six and eight years old, of whom he seems dotingly fond, and for whom, but for the comfortable circumstances of their father, we should regret that no provision was made in the treaty. There are but few half-breeds among the Sacs and Foxes — and as the Indians themselves were anxious to extend the benefit of some small donations to them, it is deeply to be regretted that their benevolent purposes were frustrated either by the arbitrary orders of Government or the over-anxious zeal of the Governor to protect the Indians against themselves.

## SOME PUBLICATIONS

*The Pilgrims of Iowa.* By TRUMAN O. DOUGLASS. Boston: The Pilgrim Press. 1911. Pp. xiv, 422. Portraits, plates. There has been no more important addition to the history of Iowa churches in recent years than this volume by Dr. Douglass, who is well equipped, through long experience, to relate the story of Congregationalism in Iowa. The opening chapter is introductory and deals briefly with the history of the Iowa country and of Congregationalism leading up to the coming of the first Congregational missionaries to the Mississippi Valley.

Then follows a history of the beginnings and growth of the Congregational Church in Iowa from 1838, the year of the coming of Asa Turner, J. A. Reed, and other "patriarchs", down to the present time. Due attention is given to the famous "Iowa Band" composed of eleven classmates at Andover Theological Seminary, who came in 1843 as home missionaries to found churches in Iowa. The spread of the church to all parts of the State is then described in successive chapters.

The last two chapters in the volume are especially noteworthy. Chapter sixteen contains a directory of practically all of the Congregational Churches that have existed in Iowa, giving the dates of organization, a list of the pastors of each church from the beginning, the dates of the dedication of church edifices, and the dates of the disbanding of churches not now in existence. Chapter seventeen is devoted to an alphabetical list of more than thirteen hundred Congregational pastors who have ministered to the churches in Iowa, giving the date and place of birth of each pastor, the churches served, and the date of death in the cases of those not living at the present time. The value and interest of these two chapters is very apparent.

In addition to the history of the Congregational denomination in Iowa the volume contains sidelights on other phases of State his-

tory, and especially on the settlement of the State and on the environment, conditions, and needs of pioneer life in Iowa.

*Proceedings of the Mississippi Valley Historical Association for the Year 1910-1911.* (Volume IV.) Edited by BENJAMIN F. SHAMBAUGH. Cedar Rapids: The Torch Press. 1912. Pp. 316. This volume, which is uniform with the preceding volumes in the series, contains the papers read at the meetings at Indianapolis in December, 1910, and at Evanston and Chicago in May, 1911. Among the papers contained in the volume are: *A Centennial of Western Steamboat Navigation*, by Archer B. Hulbert; *Early Forts on the Upper Mississippi*, by Dan Elbert Clark; *Some Notes on the Fort Dearborn Massacre*, by Milo Milton Quaife; *Some Materials for the Social History of the Mississippi Valley in the Nineteenth Century*, by Solon J. Buck; *The Mississippi Valley and Internal Improvements, 1825-1840*, by R. B. Way; *Were the Outagami of Iroquois Origin*, by N. H. Winchell; *Lincoln and Douglas as Lawyers*, by Orrin N. Carter; *High School Texts and Equipment in History*, by L. A. Fulwider; and *Preparation for the High School Teacher of History*, by Norman M. Trenholme.

*The Spanish Settlements Within the Present Limits of the United States, 1513-1561.* By WOODBURY LOWERY. New York: G. P. Putnam's Sons. 1911. Pp. xiii, 515. Portrait, plates, maps. The history of the lower Mississippi Valley is of late receiving considerable attention, and the present volume, written several years ago, is a welcome addition to the literature on the subject. The volume is divided into three books, the first of which deals with the physical aspects of the country, the natives and their customs, and Spain at the close of the fifteenth century.

Book two is devoted to explorations and discoveries, including those of Ponce de Leon, Narvaez, Cabeza de Vaca, De Soto, and Coronado. There is also a chapter on the discovery of upper California. Book three contains brief discussions of some of the Spanish missions. Copious foot-notes furnish references to a great mass of source material, while there are valuable appendices. A comprehensive index closes the volume.

*The Spanish Settlements Within the Present Limits of the United States: Florida 1562-1574.* By WOODBURY LOWERY. New York: G. P. Putnam's Sons. 1911. Pp. xxi, 500. Portrait, plates, maps. This volume is uniform in style and binding with the volume by the same author dealing with the period of Spanish settlements from 1513 to 1561, but each one is a monograph complete in itself.

Book one of the present volume is devoted to chapters on the history of the various French colonies in Florida. The chapters of book two are grouped about the general subject of the Spanish colony. The Guale and Virginia missions are discussed in book three. Eighty pages are devoted to appendices containing illustrative material. The book is written in a readable style and is apparently based with painstaking care on a thorough investigation of a great mass of source material.

*Collections of the State Historical Society of North Dakota.* (Volume III.) Edited by ORIN G. LIBBY. Bismarck: Tribune, State Printers and Binders, 1910. Pp. 763. Portraits, plates, maps. Much valuable historical material is to be found in this volume which was distributed late in 1911. The following enumeration of the titles of some of the papers will indicate the character of the contents: *History of the State Constitutional Convention of 1889*, by R. M. Black; *History of Abercrombie Township, Richland County*, by Alma Tweto; *The History of Fort Totten*, by Charles de Noyer; *History of the Settlement of Swedes in North Dakota*, by Myrtle Bemis; *Early Norwegian Emigration and its Causes*, by C. S. Torvend; *Mennonite Settlements in North Dakota*, by Hazel J. Loynes; *Bits of History Connected with the Early Days of the Northern Pacific Railway and the Organization of its Land Department*, by James B. Power; and *Early Fur Trading in the Red River Valley*, by Cora Dean. Under the general heading of *History of the Northwest* nearly one hundred and fifty pages are devoted to documentary material, and there is an extensive monograph on the *Industrial History of the Valley of the Red River of the North*, by John Lee Coulter. A number of biographical sketches and several Indian legends complete the contents of the volume.

*American Colonial Government 1696-1765.* By OLIVER MORTON DICKERSON, PH. D. Cleveland: The Arthur H. Clark Company. 1912. Pp. 390. Plates. To be more explicit, as is stated on the title page, Professor Dickerson's volume is a study of the British Board of Trade in its relation to the American colonies, political, industrial and economic.

The book contains six chapters devoted respectively to the organization and personnel of the Board of Trade, the relations of the Board of Trade to other departments of administration, the difficulties of colonial administration, the imperialistic policy of the Board of Trade, the treatment of colonial legislation, and boundaries, trade, defense, and Indian affairs. Original source material in the Public Record Office in London has been drawn upon quite largely by the author in the preparation of the volume.

*The Leading Facts of New Mexican History.* By RALPH EMERSON TWITCHELL. Cedar Rapids: The Torch Press. 1911. Volume I. Pp. xx, 506. Portraits, plates, maps. A study in a very interesting field has been begun in this first volume of an extensive two-volume work. The first chapter deals with the origin and history of the first inhabitants, and no region of North America offers greater opportunity for fascinating ethnological investigation than the region in which New Mexico is situated. The three succeeding chapters are devoted to the romantic wanderings of Cabeza de Vaca and his companions, the search of Friar Marcos de Niza and the negro Estevan for the "Seven Cities of Cibola", and the long march of Coronado into what is now northern Kansas.

The activities of the Spanish friars, Agustin Rodriguez, Francisco Lopez, and Juan de Santa Maria are described in chapter five. The expedition under Don Antonio de Espejo and Fray Bernardino Beltran up the Rio Grande del Norte, the conquest of New Mexico by Don Juan do Oñate, and the rebellion and subsequent independence of the Pueblos are the subjects of three chapters; and the volume closes with an outline of Spanish rule in New Mexico from 1700 to 1822.

The volume is amply illustrated by numerous portraits, plates, and maps. Copious foot-notes supply not only references to

sources, but a great deal of valuable material supplementary to the text.

*History of the Zetagathian Society of the State University of Iowa.* By THEODORE A. WANERUS. Iowa City: The Zetagathian Society. 1911. Pp. xii, 248. Portrait, plates. This volume contains a record of the activities and achievements of what was probably the earliest college literary society west of the Mississippi River. This society numbered among its members men who have subsequently been prominent in Iowa and other States, and consequently the volume will be of interest to many people. Moreover, the book presents a view of a certain important phase of student life and hence is a valuable contribution to the history of the State University of Iowa. The book is well printed on good paper and the binding is neat and substantial.

*The Annexation of Texas.* By JUSTIN H. SMITH. New York: The Baker and Taylor Co. 1911. Pp. viii, 496. The annexation of Texas was, as the author states in his preface, a "complicated and critical affair". The mass of material on the subject, such as diplomatic correspondence, legislative journals and documents, private letters, papers, and diaries, is enormous, and requires of the investigator a great deal of sifting and an ability to grasp essentials. The author, however, appears to have been equal to the task. The treatment is complete, the method is scientific, and the style is clear and readable.

The twenty-one chapters in the volume carry the subject from the first agitation of the annexation question through the intricacies of diplomacy, Congressional debate, and political party manipulation to the final consummation of annexation. The United States, England, France, and Mexico, as well as Texas itself, were all vitally interested in the long struggle, and hence the narrative leads the reader into many fields.

*Proceedings of the Massachusetts Historical Society.* Volume XLIV. Boston: Massachusetts Historical Society. 1911. Pp. xvi, 787. Portraits, plate. This large volume contains the reports, papers, and addresses presented at the monthly meetings of the

Society from October, 1910 to June, 1911. To mention all of the papers in the volume would in this connection be impracticable, but a few selections will serve to point out the contributions which would seem to be of the greatest general interest, especially to students of western American history.

Charles Francis Adams is the writer of a paper on *The Campaign of 1777* which covers approximately fifty pages. *The Convention of 1800 with France* is discussed by Brooks Adams. A paper of western interest is one on *Negro Suffrage in Kansas and Missouri*, by Franklin B. Sanborn. Charles Francis Adams in a paper entitled *To the Canal Zone and Back* writes interestingly of his impressions while on a journey to the region of the Panama canal.

Finally, there is a journal of a *Tour to the Western Country* made in 1845 by William Whitwell Greenough. From Boston Mr. Greenough journeyed by way of New York City, Philadelphia, Pittsburgh, Cleveland, Detroit, and Kalamazoo to Chicago, traveling partly by rail and partly by boat on the Great Lakes. Thence he proceeded westward by stage to Galena, and finally crossed the Mississippi River at Dubuque. Returning to Galena without penetrating further into the interior of Iowa, he went by boat down the Mississippi to St. Louis, and in the journal may be found mention of Rock Island, Bloomington (now Muscatine); Burlington, and Nauvoo, the city of the Mormons. The journal is full of interesting comments upon the route and the places visited, and affords a glimpse of eastern Iowa in 1845.

*Des Moines the Pioneer of Municipal Progress and Reform in the Middle West together with the History of Polk County, Iowa.* Two volumes. By JOHNSON BRIGHAM, State Librarian of Iowa. Chicago: The S. J. Clarke Publishing Co. 1911. Pp. xiv, 746, 1448. Portraits, plates, maps. In common with the majority of the new histories of Iowa counties, which are appearing in rapid succession, the second volume of this work is devoted to biographical data, and in the preparation of this volume Mr. Brigham took no part. It is therefore the first volume which is the product of Mr. Brigham's pen.

The great mass of valuable material included in the pages of this

volume is arranged under an elaborate classification of books, parts, and chapters. Book one, omitting the usual stereotyped history of Iowa, is devoted to the history of the Des Moines River, the two parts dealing respectively with explorations from Marquette and Joliet in 1673 to Captain Allen in 1843, and the attempts to make the river navigable. The chapters of book two tell of the history of Fort Des Moines and its choice as the location of the State capital. The first four parts of book three trace the growth and development of Des Moines from the time of the removal of the capital to the period of its prominence as a leader in the movement for municipal reform. The remaining parts of this book deal with schools and colleges, churches, the learned professions, insurance companies, banks and bankers, journalism, clubs and societies, transportation, and various other topics. Book four is devoted to a general history of Polk County.

Mr. Brigham has worked long and laboriously in the production of this volume, which is a marked improvement upon any previous history of Des Moines or Polk County, and he has brought to light much interesting material hitherto unpublished.

*Studies of the Niagara Frontier.* By FRANK H. SEVERANCE. Buffalo: Buffalo Historical Society. 1911. Pp. 437. Maps, diagrams. The above title is given to volume fifteen of the *Buffalo Historical Society Publications*. The book contains not so much studies in the history of the Niagara frontier by the author himself as accounts of what has been written concerning that region by travelers and visitors in the past. For instance, one chapter deals with *Early Literature of the Niagara Region*. In another chapter there is a survey of *The Niagara Region in Fiction*. Chateaubriand's impressions are discussed under the heading: *A Dreamer at Niagara: Chateaubriand in America*. Much space is devoted to *The Niagara in Art*, while the visits of scientists receive due attention. The various *Historical Associations of Buffalo* are discussed; and a general summary of the history of the region is presented under the heading: *From Indian Runner to Telephone*. Certain errors in histories of the Niagara frontier are pointed out in a separate chapter.

The book, as is customary with the publications of the Buffalo

Historical Society, is neatly printed on good paper and is bound in a substantial manner. A good index is a praiseworthy feature.

*History of Muscatine County Iowa from the Earliest Settlements to the Present Time.* Two volumes. IRVING B. RICHMAN, Supervising Editor. Chicago: The S. J. Clarke Publishing Co. 1911. Pp. 489, 787. Portraits, plates. This work, conforming to the usual custom, is in two volumes, but it is only with the first volume that Mr. Richman has had anything to do, the second volume being devoted entirely to biographical sketches.

The opening chapters contain a general discussion of the Iowa country, its geology, early inhabitants, exploration, and settlement, special attention being given to the region in which Muscatine County is located. The organization of Muscatine County, the participation of citizens of the county in the Civil War, the organization of townships, the German population of the county, the location of the county seat, churches and parishes, schools and education, the medical profession, bench and bar, journalism, banks and bankers, transportation, and associations and fraternal orders — all are subjects treated in the remainder of the twenty-four chapters which make up the volume. The closing chapter is devoted to a very valuable chronology of events in Muscatine County from 1834 to 1910. No better editor for the volume could have been secured than Mr. Richman, who keenly appreciates the importance and interest of local history, and whose historical writings are well known.

*Acquisition of Oregon and the Long Suppressed Evidence About Marcus Whitman.* Two volumes. By WILLIAM I. MARSHALL. Seattle: Lowman & Hanford Co. 1911. Pp. 450, 368. Portrait. This posthumous work, the publication of which was made possible by the donations of a number of citizens of Washington and Oregon, contains a great mass of material in refutation of the Marcus Whitman legend. The author spent many years of his life in the study of Oregon history and arrived at his conclusions relative to Marcus Whitman without knowledge of the work being done in the same field by the late Professor Bourne.

The first volume contains seven chapters dealing respectively with the unique features of Oregon history, the period of maritime dis-

covery, the Louisiana Purchase and the Lewis and Clark expedition, the founding and capture of Astoria, the discovery and development of the first continental wagon route, governmental action relative to the acquisition of Oregon, and the relation of the Hudson Bay Company to American exploration and settlement. This volume is therefore quite largely introductory to the discussion of the Whitman legend, which is to be found in the second volume. The nine chapters of this volume treat of the establishment of missions among the Indians in Oregon, the Marcus Whitman legend and the evidence relative to the true object of Whitman's ride, and the Whitman massacre and its causes.

While there may be differences of opinion relative to some of the conclusions reached by the author, the two volumes are nevertheless a real contribution to the history of the Oregon country, especially in view of the mass of hitherto unpublished and unknown documentary material which they contain. Iowans will be interested in a number of references to Matthew M. McCarver, who, before he went to the Oregon country, was a pioneer city builder in Iowa.

#### AMERICANA

##### GENERAL AND MISCELLANEOUS

*Major Robert Anderson and Fort Sumter 1861*, by Eba Anderson Lawton, is a booklet recently issued from the Knickerbocker Press of New York.

*The Twenty-fifth Annual Report of the Commissioner of Labor* is devoted entirely to an elaborate study of the subject of *Industrial Education*.

*The Work of the Hague Court* is the subject discussed by N. Politis in bulletin number six published by the American Society for Judicial Settlement of International Disputes.

*The Business Man's Interest in Peace — Why not Neutralize China?*, by John Hays Hammond; and *An Argument from Hobbes' Leviathan*, by E. H. Griffin, are articles in the November number of the *Maryland Quarterly* published by the Maryland Peace Society.

The National Citizens' League for the Promotion of a Sound Banking System has published an address by J. Laurence Laughlin on *Banking Reform and the National Reserve Association*.

In the October-December number of the *Proceedings of the American Philosophical Society* may be found a second installment of John J. Stevenson's monograph on *The Formation of Coal Beds*.

The April number of *The American Catholic Historical Researches* is a *Griffin Memorial Number* containing tributes to the late Martin I. J. Griffin, who for twenty-five years was the editor of the periodical.

Two recent numbers of the *Johns Hopkins University Studies in Historical and Political Science* are devoted to *The Closed Shop in American Trade Unions*, by Frank T. Stockton; and *Recent Administration in Virginia*, by F. A. Magruder.

The *Report of the Librarian of Congress* for the year ending June 30, 1911, contains, among other things, a list of accessions of manuscripts and broadsides, and a special report of interest and value relative to legislative reference bureaus.

Among the articles in *The History Teacher's Magazine* for February are: *The Evolution of the Teacher*, by Lucy H. Salmon; *How Modern Shall We Make Our Modern History?*, by David Saville Muzzey; and *The New Age*, by Henry Lewin Cannon.

The December *Bulletin of the New York Public Library* contains a *List of Works Relating to Witchcraft in Europe*, and a *List of Works Relating to the Isle of Man*. In the January number may be found part one of a *List of Works Relating to the West Indies*.

Pamphlets recently published by the American Association for International Conciliation contain the following articles and addresses: *The Anglo-American Arbitration Treaty*, by Heinrich Lammasch; *Forces Making for International Conciliation and Peace*, by Jackson H. Ralston; *Finance and Commerce: Their Relation to International Good Will*, by various writers; *Do the Arts Make for Peace?*, by Frank Jewett Mather, Jr.; and *An Anthropologist's View of War*, by Franz Boas.

*The Old Schools and Universities in Scotland*, by Alexander Gray; *Ragna-Rök and Orkney*, by Alfred W. Johnston; and a continuation of the *Chronicle of Lanercost*, by Herbert Maxwell, are among the contributions in the January number of *The Scottish Historical Review*.

An article on *The Quest of El Dorado*, by J. A. Manso, is begun in the January number of the *Bulletin of the Pan American Union*, and is continued in succeeding issues. In the March number Harry O. Sandberg tells of ancient structures at Palenque in an article entitled *Ancient Temples and Cities of the New World*.

*Business Paying the Price*, by Henry Harrison Lewis; *A Brief Survey of Export Conditions*, by Steven de Csesznak; *The Railway Situation at the Close of 1911*, by George Sherwood Hodgins; and *The Nation's Greatest Peril*, by John Kirby, Jr., are articles which appear in the December number of *American Industries*.

The National Association for the Advancement of Colored People has published a booklet containing a centennial oration on *Wendell Phillips*, delivered at Park Street Church in Boston on November 28, 1911, by Wendell Phillips Stafford. The book is illustrated by photographs of Wendell Phillips taken at different periods in his life.

Among the articles in the *American Federationist* during the past quarter are: *The Wage-Earners and the Employers*, by John Mitchell (January); *Public Opinion and Labor*, by Samuel Gompers, and *A Short Ballot?—Well, it Depends*, by J. W. Sullivan (February); and *The Lawrence Strike*, by Samuel Gompers (April).

*Why Canada Rejected Reciprocity*, by a Canadian, is a brief and concise statement on one phase of a topic which was of widespread interest during last year, which appears in the January number of the *Yale Review*. Under the heading of *Simplified City Government* Clinton Rogers Woodruff states the advantages of the commission plan. Grant Showerman is the writer of a spicy sketch on *The Making of a Democrat*. Among the remaining contributions is an article on *The Sherman Act and Business*, by Guy W. Mallon.

Two biographical sketches in the *Annual Report of the Smithsonian Institution* for 1910 are: *Melville Weston Fuller—1833-1910*, by Charles D. Walcott; and *Alexander Agassiz, 1835-1910*, by Alfred Goldsborough Mayer. Another paper of historical interest is one on *The Cave Dwellings of the Old and New Worlds*, by J. Walter Fewkes.

Two historical articles to be found in the *Journal of the United States Cavalry Association* for March are: *Grant's Movements Across the James*, by George Van Horn Moseley; and *Shelby's Expedition to Mexico*, by H. A. White. The latter article is a review of a book, now out of print, dealing with an incident in the history of the Civil War of which little is known.

The *Report of the Twenty-ninth Annual Lake Mohonk Conference of Friends of the Indian and Other Dependent Peoples* contains the proceedings of the meeting held on October 18-20, 1911. As is usually the case the papers and addresses deal with various problems connected with the American Indians, the Alaskan natives, and the people of Porto Rico and the Philippines.

*Beet Sugar and the Tariff* is the subject discussed by F. W. Taussig in the opening pages of *The Quarterly Journal of Economics* for February. Other articles are: *The Recent Rise in the Price of Silver and Some of its Monetary Consequences*, by E. W. Kemmerer; *The British National Insurance Act*, by Robert F. Foerster; and *Tenancy in the Western States*, by Benjamin H. Hibbard.

Among the articles in *The Survey* during the past three months are: *Supreme Court and the Loan Shark*, by Arthur H. Ham (January 13); *The Lenroot Bill*, by Frank J. Goodnow (January 27); *The Steel Industry and the People in Colorado*, by John A. Fitch (February 3); *The Quality of Service*, by Frank L. McVey (February 10); *The Significance of the Situation at Lawrence*, by W. J. Lauck (February 17); *Some Expressions of Democracy*, by Gaylord S. White (February 24); *For a Just Industrial Peace*, by Allen T. Burns; and *State Intervention in Strikes*, by Paul Kennaday (March 16); and *Probation and Politics* (March 30).

The February number of the *American Labor Legislation Review* contains the proceedings of the fifth annual meeting of the American Association for Labor Legislation. The general subjects of discussion at this meeting were the unemployment problem in America, safety and health in the mining industry, uniform reporting of industrial injuries, and the relation of State to federal workmen's compensation and insurance legislation.

*The Boston Police Department*, by George H. McCaffrey; *The State's Authority to Punish Crime*, by Harold Höffding; *The Public Defender: The Complement of the District Attorney*, by Robert Ferrari; and *The McNamara Sentence Justified*, by Francis J. Heney, are articles in the *Journal of the American Institute of Criminal Law and Criminology*, for January. In the March number two contributions are: *Delays in Courts of Review in Criminal Cases*, by Frank K. Dunn; and *The Problem of Causation of Criminality*, by William Healy.

*Courts of Law and Representative Assemblies in the Sixteenth Century*, by W. S. Holdsworth; and *The Parliament Act and the British Constitution*, by Edward Jenks, are two articles which appear in the January number of the *Columbia Law Review*. In the February number Roland R. Foulke begins a discussion of *Restraints on Trade*, which is continued in the March number. Here may also be found the first of a series of lectures by Sir Frederick Pollock on *The Genius of the Common Law*, the subject of the present lecture being *Our Lady and her Knights*.

*Democracy in the Household*, by Lucy M. Salmon; *Immigration and Crime*, by I. A. Hourwich; and *The Case of Purpose Against Fate in History*, by Alfred H. Lloyd, are articles of special interest in the January number of *The American Journal of Sociology*. The March number opens with the presidential address on *The Quality of Civilization*, delivered at the last annual meeting of the American Sociological Society by Franklin H. Giddings. Among the other articles are: *The City as a Socializing Agency*, by Frederic C. Howe; *The Restriction of Immigration*, by Henry Pratt Fairchild; and *The Application of the Social Survey to Small Communities*, by John Lewis Gillin.

The January number of *The South Atlantic Quarterly* constitutes the tenth anniversary number of the periodical. The opening pages contain an editorial discussion of *Ten Years of the South Atlantic Quarterly*. Among the articles are: *The Morocco Crisis of 1911*, by Edward Raymond Turner; *William Tecumseh Sherman as College President*, by Walter L. Fleming; *The Appeal to Ancestry in Literature*, by William Wistar Comfort; *Lee and Psychography*, by Gamaliel Bradford, Jr.; and *William Pitt and his Recent Critics*, by William Thomas Laprade.

Volume five, number four of *The Journal of American History* opens with an article on *The Winning of Oregon*, by Robert H. Blossom. The article traces the checkered history of the Oregon country from the time it was first seen by white men to the date of its acquisition by the United States. There are numerous cuts of the persons most prominently connected with the winning of Oregon. *The Battle of Fort Griswold* is described by Mabel Cassine Holman; while other articles are: *The Conspiracy of Aaron Burr — A Sidelight on Mississippi History*, by Elizabeth Brandon Stanton; *The Losing and Finding of the "Resolute"*, by J. C. Burkholder; and *An Echo from the Civil War*, by Stephen Farnum Peckham.

*Continental Agents in America in 1776 and '77* is the subject of an article by Alice Goddard Waldo which is begun in the December number of *Americana*. James W. Dixon discusses *The United States Senate in 1860-61*. The installment of John R. Meader's *The Little Wars of the Republic* here printed is devoted to *The Burr Conspiracy*. The installment in the January number describes *John Brown's Raid*. Another article in the January number is a discussion of *The United States and International Arbitration*, by Lindsay Rogers. Among the contributions in the February number is *Abraham Lincoln: An Example of Patriotism and Self Education*, by Thomas S. Lonergan. In all three numbers there are continuations of the *History of the Mormon Church*, by Brigham H. Roberts.

*The German Elections*, by Jeremiah W. Jenks; *What the British Have Done for India*, by Saint Nihal Singh; and *The Short Ballot*

in *American Cities*, by H. S. Gilbertson, are among the articles in the January number of *The American Review of Reviews*. In the February number may be found a discussion of *Yuan Shik-kai and the Closing Days of the Manchu*, by Adachi Kinnosuke; an article on *The College and the Man*, by J. Irving Manatt, which deals with the life and services of the late Professor Leonard F. Parker of Grinnell College; and an article on *The National Archives: Are They in Peril?*, by Rosa Pendleton Chiles. Among the contributions in the March number are: *The Fourth Constitutional Convention of Ohio*, by Henry W. Elson; and *The Growth of Socialism*, by Thomas Seltzer.

*The Recent Trust Decisions* is the subject of a timely article by Henry R. Seager which opens the December number of the *Political Science Quarterly*. Isaac A. Hourwich discusses *The Economic Aspects of Immigration*; and other contributions are: *State Taxation of Interstate Commerce*, by H. J. Davenport; and *The Letters of John Stuart Mill*, by John H. Hollander. In the March number the leading article is a discussion of *The Supreme Court — Usurper or Grantee*, by Charles A. Beard. Other articles in this number are: *The "Levy Election Law" of 1911 in New York*, by Albert S. Bard; a continuation of the study of *State Taxation of Interstate Commerce*, by H. J. Davenport; *The Social and Economic Problems of Modern Spain*, by Clarence Perkins; and *The Diary of Gideon Welles*, by William A. Dunning.

The February number of *The American Political Science Review* opens with the presidential address on *The Progressive Unfolding of the Powers of the United States*, delivered by Simeon E. Baldwin at the annual meeting of the American Political Science Association last December. *Diplomatic Affairs and International Law 1911* is the subject discussed by Paul S. Reinsch; while the remaining article is one on *The Operation of the Recall in Oregon*, by James D. Barnett. Ballot legislation, primary election, and tax legislation are the fields of legislation of which summaries may be found in the *Notes on Current Legislation*, edited by Horace E. Flack. At the last annual meeting of the American Political Science Association it was voted that in the future the proceedings of

the Association should be published in a supplement to the *Review*. Consequently a supplement to the February number contains the proceedings of the meeting held at Buffalo and Toronto in December, 1911. Recent constitutional changes, municipal and local government, American diplomacy, and Canadian politics are the main topics of discussion in the papers read at this meeting.

*China Social and Economic Conditions* is the general topic of discussion in the January number of *The Annals of the American Academy of Political and Social Science*. There are papers on such subjects as the Chinese revolution, republican government in China, the solution of the Manchurian problem, the open door, the causes of Chinese emigration, and American commercial interests in Manchuria. Many of the writers are Chinese. The March number of the *Annals* is devoted to articles dealing with various industrial and social problems of rural communities, grouped under the heading of *Country Life*. The conditions and needs of country life, agricultural education, farm tenancy in the United States, scientific farming, the good roads movement, immigrant rural communities, social life in the country, the country school, the tramp problem, and village problems are among the subjects discussed.

*The American Economic Review* for March opens with a discussion of *Wage Boards in England*, by E. F. Wise. *The Legal Minimum Wage in the United States*, by A. N. Holcombe, is an article on a subject which has recently received considerable attention. The two remaining articles are: *Profit on National Bank Notes*, by Spurgeon Bell; and *Theories of Progress*, by S. N. Patten. A supplement to this number of the *Review* contains the *Papers and Proceedings of the Twenty-fourth Annual Meeting of the American Economic Association* held at Washington, D. C., in December, 1911. Among the papers and addresses at that meeting are: *The Economic Utilization of History*, by Henry W. Farnam; *Economic Investigation as a Basis for Tariff Legislation*, by Henry C. Emery and H. Parker Willis; *The Federal Budget*, by President Taft; *The Restriction of Immigration*, by Henry P. Fairchild; *The Significance of Emigration*, by W. W. Husband; and *Recent Investigations on the Cost of Living*, by Henry J. Harris.

## WESTERN

A little volume of western interest, dealing with certain phases of the early history of Ohio, is entitled *The Portage Path*, and is written by P. P. Cherry.

A *Bulletin of the University of New Mexico* published in February contains a brief discussion of *The Spanish Language in New Mexico: A National Resource*, by E. D. McQueen Gray.

Among the recent publications of G. P. Putnam's Sons is a volume entitled *An Artillery Officer in the Mexican War 1846-7*, which is made up of a collection of letters of Robert Anderson of Fort Sumter fame, arranged by his daughter, Eba Anderson Lawton.

Among the articles in *The University of California Chronicle* for January are: *Williams College in 1845*, by Horace Davis; *The Races and Tongues of Men*, by Benjamin Ide Wheeler; and *The Mission of Higher Commercial Education*, by Lincoln Hutchinson.

A number of the *University of Illinois Bulletin* published in September, 1911, contains a *List of Serials in the University of Illinois Library Together with Those in Other Libraries in Urbana and Champaign*, which will be of value as a finding list of materials.

Volume nine, part one of the *Anthropological Papers of the American Museum of Natural History* is devoted to *Notes on the Eastern Cree and Northern Saulteaux*, by Alanson Skinner. The habitations, industries, manners, customs, folk-lore, and many other phases of the life of these Indians are discussed in detail, and there are a number of illustrative plates and figures.

Among the articles in the October-December number of *The American Antiquarian and Oriental Journal* are the following: *The Interglacial Period*, by Charles Hallock; *The Calveras Skull*, by Felix J. Koch; *Notes on Prehistoric Discoveries in Wayne County, Michigan*, by John A. Russell; *When Horace Greeley Lived in Michigan*, by John O. Viking; *The Jesup North Pacific Expedition*, by Harlan I. Smith; and a brief note on the *Indian Mound Groups and Village Sites About Madison*.

*A Text-book of Fifty Years Ago*, by U. G. Mitchell; *How the University was Located*, by Wilson Sterling; and *The Mirthful Side of Chancellor Snow's Life*, by C. W. Stephenson, are contributions in the February number of *The Graduate Magazine of the University of Kansas*. Under the heading *A Historic Meeting* in the March number Wilson Sterling tells of the first meeting of the Board of Regents of the University of Kansas.

## IOWANA

*Conservation as Applied in Banking*, by H. N. Grut, is an article in the February number of *The Northwestern Banker*.

In the January number of *The Grinnell Review* may be found a number of tributes to the late Professor L. F. Parker.

*The McCauslands of Donaghane and Allied Families* is the title of a genealogical booklet compiled by Miss Merze Marvin of Shenandoah.

*College Days in the '70's* is the subject of an article by W. O. Robinson which appears in the February number of *The Alumnus* published at Iowa State College at Ames.

A biographical sketch of *Benjamin P. Cosand*, by Louis T. Jones, is to be found in the December number of *Western Work*, the organ of the Friends Church published at Oskaloosa.

*Some of My Experiences as a Sailor; or the Wreck of the "Jenny Barto"*, by J. A. Anthony; and *The Aborigine: A Retrospect*, by T. S. Brown, are articles in the February number of *Autumn Leaves*.

The proceedings of the *Twelfth Annual Conference of the Iowa Daughters of the American Revolution* held at Des Moines on October 18 and 19, 1911, have been printed in a pamphlet of over forty pages.

The series of articles by Theodore A. Wanerus on *Presidents of the University* is continued through the January, February, and March numbers of *The Iowa Alumnus* published at the State University of Iowa.

Continuations of biographical and autobiographical material make up the contents of the January number of the *Journal of History* published at Lamoni by the Reorganized Church of Jesus Christ of Latter Day Saints, with the exception of an article on *Graceland College*, by Inez Smith.

*A Bit of History and of Reminiscence* is the subject of a paper by Luther A. Brewer which is printed in a neat pamphlet containing an account of a banquet held on March 9, 1912, to celebrate the quarter centennial of Mr. Brewer's connection with the Republican Printing Company of Cedar Rapids.

*The Improvement of Municipal Physical Records*, by Earnest C. Meyers, is an article in the January number of *The City Hall — Midland Municipalities*. Contributions in the February number are: *Function of State Municipal Accounting*, by F. M. Abbott; *Waterworks Today Compared to Olden Times*, by J. A. Cable; and *The Functions of a Municipal Reference Department*, by Charles Homer Talbot.

*Shakespeare and Freemasonry*, by William Norman McDaniel; a continuation of *Neglected and Difficult Points of Masonic History, and Chiefly of the Ancient or Jacobite Masonry*, by John Yarker; and *Freemasonry as it Was and as it Should be for all Time*, by R. F. Elring, are articles in the January number of *The American Freemason*. In the February number may be found *A Brand-New Theory of Masonic Origins*, by the editor; and *The Menace of Catholicism*, by F. W. Hersy.

*The Proceedings of the Seventeenth Annual Meeting of the Iowa State Bar Association held at Oskaloosa, Iowa, June 29 and 30, 1911*, contains, among others, the following papers and addresses: *The Lawyer as a Patriot*, by John C. Sherwin; *John Marshall*, by J. L. Carney; *Uncertainties of the Law*, by J. A. Devitt; *The Judge and the Law*, by J. M. Parsons; *The Railroads and the Law*, by J. C. Davis; and *Employers' Liability and Workingmen's Compensation Acts*, by John Burke. The volume is an improvement on its predecessors in the arrangement of the contents and in the appearance of an adequate index. The work is edited by the Secretary of the Association, Professor H. C. Horack.

## SOME RECENT PUBLICATIONS BY IOWA AUTHORS

- Bain, Harry Foster,  
*Types of Ore Deposits.* San Francisco: Mining and Scientific Press. 1911.
- Brigham, Johnson,  
*History of Des Moines and Polk County.* Chicago: The S. J. Clarke Publishing Co. 1911.
- Crawford, James Shannon,  
*Philosophic Anarchism: Its Good Side and its Very Bad.* Cherokee, Iowa: Published by the author. 1911.
- Devine, Edward T.,  
*The Spirit of Social Work.* New York: Charities Publication Committee. 1911.
- Douglass, Truman O.,  
*The Pilgrims of Iowa.* Boston: The Pilgrim Press. 1911.
- Ferber, Edna,  
*Buttered Side Down.* New York: Frederick A. Stokes Co. 1912.
- Horack, H. Claude (Editor),  
*Proceedings of the Seventeenth Annual Meeting of the Iowa Bar Association.* Iowa City: Iowa State Bar Association. 1911.
- Hough, Emerson,  
*John Rawn.* Indianapolis: The Bobbs-Merrill Co. 1912.
- Hughes, Rupert,  
*The Old Nest.* New York: The Century Co. 1912.
- King, Irving,  
*Social Aspects of Education.* New York: The Macmillan Co. 1912.
- Lazell, Frederick John,  
*Some Autumn Days in Iowa* (New and enlarged edition). Cedar Rapids: The Torch Press. 1912.
- Marvin, Merze,  
*The McCauslands of Donaghane and Allied Families.* Shenandoah: Published by the author. 1911.

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Meyers, F. W.,

*History of Crawford County, Iowa.* Chicago: The S. J. Clarke Publishing Co. 1911.

Murphy, Thomas D.,

*Three Wonderlands of the American West.* Boston: L. C. Page Co. 1912.

Page, Charles Nash,

*The Page Family.* Des Moines: Published by the author. 1912.

Parish, John Carl,

*George Wallace Jones.* Iowa City: The State Historical Society of Iowa. 1912.

Shambaugh, Benj. F. (Editor),

*Proceedings of the Mississippi Valley Historical Association for the Year 1910-1911.* Cedar Rapids: The Torch Press. 1912.

### SOME RECENT HISTORICAL ITEMS IN IOWA NEWSPAPERS

#### *The Register and Leader*

George H. Maish, an Early Settler, by L. F. Andrews, January 14, 1912.

Iowa Soldiers Raised the Flag Above the Capital in Columbia, S. C., January 14, 1912.

Mrs. Harriet Lyon, a Noted Woman of Central Iowa, January 14, 1912.

L. M. G. Barnett, One of the Local Pioneers, by L. F. Andrews, January 21, 1912.

Hornet's Nest Brigade Hold Anniversary Reunion, January 21, 1912.

Des Moines People Seventeen Years in Single Tax Colony, January 21, 1912.

Heroic Deed of Kate Shelly Recalled, by J. F. Lewis, January 28, 1912.

Prominent Places Held and Honored by Iowa Railroad Experts, February 4, 1912.

- Five Survivors of the First Swedish Colony in Iowa, February 4, 1912.
- Sketch of Life of James B. Weaver, February 7 and 8, 1912.
- A Literature of Iowa, February 10, 1912.
- History as Recorded by Signatures and Legends on Hotel Registers, by Frederick C. Smith, February 11, 1912.
- Martin Flynn as a Railroad Builder, by L. F. Andrews, February 11, 1912.
- The Charge on Fort Donelson, by J. B. Weaver, Jr., February 18, 1912.
- Iowa had a Reno Once — Now it is Merely History, by J. F. Lewis, February 18, 1912.
- Mandelbaum and Sons, Pioneer Business Firm, by L. F. Andrews, February 18, 1912.
- McGregor Military Road, by Florence Clark, February 25, 1912.
- Thomas W. Purcell Celebrates Henderson Hill Anniversary, March 3, 1912.
- Relic of Visit Paid Dubuque by Horace Greeley in 1855, March 10, 1912.
- Mrs. Mary Styles — A Real Pioneer of Iowa, March 10, 1912.
- Nathan Andrews — A Des Moines Pioneer, by L. F. Andrews, March 10, 1912.
- Patriarchal Pioneers of Delaware County, March 17, 1912.
- John Hays — Pioneer, by L. F. Andrews, March 17, 1912.
- Animal Life in Prehistoric Iowa, March 24, 1912.
- Professor Jesse Macy of Grinnell Will Retire, March 24, 1912.
- John M. Brainard Tells of Snow Storm, March 24, 1912.
- Homer P. Branch — One of Iowa's Best Editor Poets, March 31, 1912.
- Virginia Tragedy Recalls Iowa Bandit's Escape from Court, by C. Ray Aurner, March 31, 1912.
- Mississippi River War, March 31, 1912.
- J. H. Windsor — Pioneer Business Man, by L. F. Andrews, March 31, 1912.

*The Burlington Hawk-Eye*

In Old Burlington. (In each Sunday issue.)

## 288 IOWA JOURNAL OF HISTORY AND POLITICS

Reminiscences by W. P. Elliot, January 21, 1912.

An Execution in the Army, January 21, 1912.

The First Swedish Settlement in Iowa, January 28, 1912.

Sketch of History of the Hilleary Family, February 4, 1912.

The Winter of 1863-4, February 4, 1912.

Lights and Shadows of a Soldier's Life, by Robert J. Burdette,  
February 4 and 25, and March 3, 1912.

Two Years Experience Under the Commission Plan of City Government, February 17, 1912.

Going to the War and Cold Winters, by H. Heaton, February 25, 1912.

The Past Year in Burlington, March 3, 1912.

When River Cities Opposed Bridging the Mississippi, March 10, 1912.

Some Old Landmarks, March 17, 1912.

Sketch of Life of Morris W. Blair, March 17, 1912.

The Testing of the Brook, by Robert J. Burdette, March 31, 1912.

### *The Dubuque Telegraph-Herald*

Mrs. Harriet Lyon — Pioneer Iowa Woman, January 14, 1912.

Coldest January in Local History, January 21, 1912.

Senator Allison's Narrow Escape, January 21, 1912.

Historic Old Military Highway, January 21, 1912.

Mrs. Mary Styles — Pioneer Dubuque Woman, March 3, 1912.

History of Mississippi River, March 31, 1912.

## HISTORICAL SOCIETIES

### PUBLICATIONS

The *Proceedings of the Rhode Island Historical Society, 1910-1911*, have been published in pamphlet form by the Society.

Floyd C. Shoemaker's article on *The First Constitution of Missouri* has been reprinted in pamphlet form from the *Missouri Historical Review*.

The principal contribution in the January number of *The Medford Historical Register* is an article on *Literary Medford*, by Louise Peabody Sargent.

A *Bibliography of Wisconsin's Participation in the War Between the States*, prepared by Isaac Samuel Bradley, has been published by the Wisconsin History Commission.

The September-December number of the *German American Annals* is taken up entirely with a continuation of Charlotte S. J. Epping's translation of the *Journal of Du Roi the Elder*.

The New Haven Colony Historical Society has published a pamphlet containing the reports presented at the annual meeting on November 20, 1911, and a list of officers and members.

A portion of an *Analytical Index*, including the letters from A to F, of the eight-volume collection of the *Public Papers of George Clinton* has been published by the State Historian of New York.

The October-December number of *The Quarterly Publication of the Historical and Philosophical Society of Ohio* is devoted to the annual report of the Society for the year ending December 4, 1911.

A number of the *Publications of the Academy of Pacific Coast History* published in December contains the *Diary of Fray Narciso Duran* while on an expedition on the Sacramento and San Joaquin rivers in 1817.

*The Proceedings of the Sixth Annual Conference of Historical Societies*, reported by Waldo G. Leland, have been reprinted from the *Annual Report of the American Historical Association for 1909* which recently came from the press.

Among the articles in *The Indiana Magazine of History* for December are: *A Historical Sketch of Irvington, Indiana*, by Mrs. Vida T. Cottman; *Reminiscences of Judge Finch*; and *Old-Time Slums of Indianapolis*, by George S. Cottman.

The *Annual Report of the Director* of the Department of Historical Research of the Carnegie Institution of Washington contains an account of the activity of the Department during the year 1911 and an outline of plans for the future.

Volume two, number one of *The James Sprunt Historical Publications*, published under the direction of the North Carolina Historical Society, contains a brief monograph on *County Government in Colonial North Carolina*, by William Conrad Guess.

A neat booklet containing the charter and by-laws, and a list of officers and members has been published by the Pennsylvania Society of Colonial Governors. A list of all the Governors of each of the thirteen colonies is also to be found in the booklet.

Among the contributions in *The New England Historical and Genealogical Register* for January are: *William Taggard Piper*, by Clarence Walter Ayer; *Dutch Johnsons in Connecticut*, by Donald Lines Jacobus; and the *Diary of Jeremiah Weare, Jr., of York, Me.*, transcribed by Samuel G. Webber.

The installment of *The Randolph Manuscript* published in the January number of *The Virginia Magazine of History and Biography* consists of memoranda from Virginia records for the years 1688-1690. Continuations of various other series of documents occupy the remainder of the *Magazine*.

The December number of the *Journal of the Presbyterian Historical Society* is a memorial number filled with tributes to the late Henry Christopher McCook. Two articles in the March number are: *Makemie and Rehoboth*, by L. P. Bowen; and an *Historical Sketch of the Ewing Presbyterian Church*, by William M. Lanning.

*The Chenoweth Family Massacre*, by Alfred Pirtle, is a booklet published by the Kentucky State Historical Society. In addition to the main article the booklet also contains a transcript of the *Petition of the Inhabitants of Kentucky Read August 23, 1780*, and of a *Memorial and Petition of the Pioneers of 1782-1783*.

The eighth volume of the *Massachusetts Historical Society Collections*, Seventh Series, contains part two of the *Diary of Cotton Mather*, covering the years from 1709 to 1724. The diary is especially interesting as a record of the religious views of its author and his contemporaries. Besides the diary there are many letters to and from prominent men in the colonies.

*James Guthrie, Lawyer, Financier, and Statesman*, by George Baker; *Henry Clay*, by Zachariah Frederick Smith; *Patriotic Songs of All Nations*, by Ella Hutchinson Ellwanger; and *Five Hundred Kentucky Pioneers*, by A. C. Quisenberry, are articles in the January number of *The Register of the Kentucky State Historical Society*. The concluding installment of the *Bailey-Randolph History and Genealogy*, by William E. Bailey, is also to be found in this number.

An article on *The First Constitution of Missouri*, by Floyd C. Shoemaker, occupies the leading place in the *Missouri Historical Review* for January. *A Bibliography of Books of Travel in Missouri*, prepared by F. A. Sampson, is valuable for purposes of reference. J. F. Snyder writes on the *Battle of Osawatomie*; a few pages are devoted to *Reminiscences of Wm. M. Boggs, Son of Lilburn W. Boggs*; and there is a brief article on the *New Madrid Earthquake*, by John Shaw.

The twelfth volume of the *Transactions and Collections of the American Antiquarian Society* is devoted entirely to *British Royal Proclamations Relating to America 1603-1783*, edited by Clarence S. Brigham. The volume contains all of the English royal proclamations relating to North and South America which emanated directly from the King during the years indicated — a total of approximately one hundred proclamations, the majority of which relate to the regulation of trade and commerce.

*Somatology and Man's Antiquity*, by George Grant MacCurdy; *Computing the Age of Terrace Gravels*, by George Frederick Wright; and *The Mound-Builders: A Plea for the Conservation of the Antiquities of the Central and Southern States*, by William Baker Nickerson, are articles in the November-December number of the *Records of the Past*. In the January-February number there is a note on the *Origin of the American Aborigine*, and an article on the *Ruins at Pesedewinge*, by J. A. Jeancon.

Three excellent contributions make up the contents of *The Quarterly of the Texas State Historical Association* for January. Eugene C. Barker writes on *The Texan Declaration of Causes for Taking up Arms Against Mexico*. William Edward Dunn discusses *Missionary Activities Among the Eastern Apaches Previous to the Founding of the San Saba Mission*. Finally, there is an opening installment of *Correspondence from the British Archives Concerning Texas, 1837-1846*, edited by Ephraim Douglass Adams.

*William Logan's Journal of a Journey to Georgia, 1745*, opens the January number of *The Pennsylvania Magazine of History and Biography*. Other contributions are: *English Translation of Dedication and Preface of Peter Kalm's Travels*, by Adam J. Strohm; a continuation of the *Orderly Book of the Second Pennsylvania Line: Col. Henry Bicker*, edited by John W. Jordan; *Colonel Robert Lettis Hooper*, by Charles Henry Hart; and *The First Abolition Society in the United States*, by Edward Raymond Turner.

*A Case Under an Illinois Black Law*, by J. N. Gridley, is an article which opens the January number of the *Journal of the Illinois State Historical Society*. Other contributions are: *History of the Title to Lands in Rock Island County, Illinois*, by Charles L. Walker; *Dr. James Robinson*, by J. F. Snyder; *Historic Sites and Scenes in Randolph County, Illinois*, by W. M. Butler; *The Indian Statue Near Oregon, Illinois*, by Richard V. Carpenter; and an *Historical Sketch of Wethersfield, Henry County, Illinois*, by Charles T. Little. Among the *Reprints* is a contemporary account of the *Death of Elijah Lovejoy*.

*Some New Jersey Printers and Printing in the Eighteenth Century*, by William Nelson; *The Shays Rebellion a Political Aftermath*, by Andrew MacFarland Davis; *The Value of Ancient Mexican Manuscripts in the Study of the General Development of Writing*, by Alfred M. Tozzer; and *The Hull-Eaton Correspondence During the Expedition Against Tripoli, 1804-1805*, edited by Charles Henry Lincoln, are contributions in the *Proceedings of the American Antiquarian Society* for the semi-annual meeting on April 12, 1911.

The principal article in the December number of the *Records of the American Catholic Historical Society* is a biographical sketch of Thomas Dongan, Catholic Colonial Governor of New York. E. I. Devitt is the compiler of *The Clergy List of 1819, Diocese of Baltimore*. The March number opens with an article on *The Rev. Peter Helbron, Second Pastor of Holy Trinity Church, Philadelphia*, by the late Martin I. J. Griffin. A letter from Archbishop Hughes to Governor Seward on the School Question, 1842, is also to be found in this number.

*The White Indented Servants of South Carolina*, by Theodore D. Jervey, is an article which occupies the opening pages of *The South Carolina Historical and Genealogical Magazine* for October. The *Register of St. Andrews Parish, Berkeley County, South Carolina*, is edited by Mabel L. Webber. There are also continuations of the *Journal of the Campaign to the Southward, May 9th to July 14th, 1778*, kept by John Faucheraud Grimké; and of the *Abstracts from the Records of the Court of Ordinary of the Province of South Carolina, 1700-1712*, prepared by A. S. Salley, Jr.

The much belated January, 1911, number of the *Annals of Iowa* is a memorial number to the late William Salter, and is entirely taken up with an article on the life and services of *Dr. William Salter*, by James L. Hill of Salem, Massachusetts. In the April, 1911, number there is an article by C. C. Stiles on *The White Breast Boundary Line*. The article embraces some interesting documentary material found in the State Archives, including the official report by George W. Harrison who surveyed the boundary

line in question. Under the heading *Toombs of Georgia Champions Harlan of Iowa* there is a brief article by Johnson Brigham dealing with a phase of the long contest in the United States Senate over the right of James Harlan to his seat after his first election in 1855. Other articles are: *The County Judge System*, by James O. Crosby; *Martin H. Calkins*, by L. F. Andrews; and *Catholic Missionaries in the Early and in the Territorial Days of Iowa*, by John F. Kemper.

*The American Historical Review* for January opens with the presidential address on *The Substance and Vision of History*, delivered by William M. Sloan at the annual meeting of the American Historical Association at Buffalo in December. Two articles dealing with phases of European history are: *Prince Henry of Portugal and his Political, Commercial, and Colonizing Work*, by C. Raymond Beazley. *The American Intervention in West Florida*, by Isaac J. Cox; and *Taxation of the Second Bank of the United States by Ohio*, by Ernest L. Bogart. Under the heading of *Documents* may be found some *Secret Reports of John Howe, 1808*, contributed by David W. Parker.

The eleventh number of the *Publications of the North Carolina Historical Commission* contains the *Proceedings of the Eleventh and Twelfth Annual Sessions of the State Literary and Historical Association*, compiled by Clarence Poe. *North Carolina Must Preserve its Historical Records* is the title of an address delivered by Thomas J. Jarvis at the eleventh annual session. Among the addresses in the twelfth annual session are: *Prosperity and Patriotism*, by Edward K. Graham; *What Should a State History for the Public Schools Contain?*, by C. Alphonso Smith; *The Constitution and its Makers*, by Henry Cabot Lodge, who was the guest of honor; and *Historical Activities in North Carolina*, by R. D. W. Connor.

T. C. Elliott is the writer of an article on *David Thompson, Pathfinder, and the Columbia River*, which appears in the September number of *The Quarterly of the Oregon Historical Society*. There is an interesting address by Frederick V. Holman on *Some Important Results from the Expeditions of John Jacob Astor to,*

and from the Oregon Country. Following this address may be found the fourth installment of Walter Carleton Woodward's monograph on *The Rise and Early History of Political Parties in Oregon*. F. G. Young is the writer of an article entitled *Oregon History for "The Oregon System"*; and there is a brief sketch of the life of Ranald McDonald by Eva Emery Dye under the heading: *A Hero of Old Astoria*. A lengthy *Report on the Territory of Oregon*, made by Charles Wilkes in 1842, is the concluding contribution.

The volume of *Missouri Historical Society Collections* for 1911 opens with an important and interesting contribution, namely, *Chouteau's Journal of the Founding of St. Louis*, which is printed both in the original French and in English translation. Equally interesting is the continuation of Walter B. Douglas's biography of *Manuel Lisa*. Mrs. Daniel R. Russell is the editor of some reminiscences of her father, Major William Clark Kennerly, which appear under the heading: *Early Days in St. Louis from the Memoirs of an Old Citizen*. There is a continuation of Charles A. Krone's *Recollections of an Old Actor*, and the closing contribution is an *Extract from the Journal of Captain Harry Gordon*.

The *Maryland Historical Magazine* for December opens with a transcript of *Vestry Proceedings, St. Ann's Parish, Annapolis, Md.* Francis B. Culver contributes some *Letters from two Maryland Pioneers in Kentucky, 1789-1793*. Under the heading of *John Kilty on the Agent's Salary* are some documents taken from the Executive Archives. Another interesting feature of the *Magazine* is a reprint of a portion of Daniel Dulany's *Considerations on the Propriety of Imposing Taxes in the British Colonies*, the remainder of which appears in the March number. Here also may be found some *Letters of Rev. Jonathan Boucher*, and *Governor Bradford's Private List of Union Men in 1861*, with an introduction by William Starr Myers.

#### ACTIVITIES

The Illinois State Historical Society will hold its annual meeting at Springfield on May 23 and 24, 1912.

During the year 1911 the North Carolina Historical Commission added approximately ten thousand manuscripts to its collections.

The Rev. Henry Van Dyke was elected President of the Presbyterian Historical Society at the annual meeting on January 11, 1912.

The Historical Society of Marshall County held its annual meeting on Tuesday, March 19, 1912, and the officers who served during the past year were reëlected.

The valuable collection of Vallé papers, as well as a collection of the papers of the late Dr. David Waldo covering the years from 1832 to 1860, has come into the possession of the Missouri Historical Society.

The seventh annual meeting of the Pennsylvania Federation of Historical Societies was held at Harrisburg on January 4, 1912. Thirty-two societies are members of this Federation, and much good is derived from the annual meetings.

The Board of Trustees of the Illinois State Historical Library have appointed Mr. Clarence D. Johns, formerly of the University of Chicago, as investigator of county and local archives, a position provided for by an act of the legislature.

The ninth annual meeting of the Pacific Coast Branch of the American Historical Association was held at Stanford University on April 5 and 6, 1912. A majority of the papers read at this meeting related to subjects in English history.

An appropriation of six hundred dollars from the treasury of the American Historical Association, supplemented by an equal amount from societies of history teachers and from individuals, has made possible the continued publication of the *History Teacher's Magazine*, the suspension of which was threatened.

The annual meeting of the Madison County Historical Society was held at Winterset on March 19th. The President, H. A. Mueller, delivered a brief address dealing with the purposes and plans of the Society; a letter written from Winterset in 1850 by Amos McPherson was read by W. F. Craig; and Professor F. I. Herriott

of Drake University delivered an address on the early settlement of Iowa. The following officers were elected for the ensuing year: H. A. Mueller, President; William Brinson, Vice President; W. F. Craig, Secretary and Treasurer; J. J. Gaston, H. H. Hawk, J. W. Leinard, and Mrs. Laura Miller, Directors.

The following officers were chosen by the Maryland Historical Society at the annual election on February 12, 1912: Mendes Cohen, President; W. Hall Harris, George A. Leakin, and Henry Stockbridge, Vice Presidents; Richard H. Spencer, Corresponding Secretary; George L. P. Radcliffe, Recording Secretary; and William H. Lytle, Treasurer.

An organization known as the Nebraska Memorial Association has been formed in Nebraska. The purpose of the Association is to provide for the marking of historic sites and highways within the State, and to gather information concerning immigration into and travel across Nebraska. The Association is organized as an auxiliary to the Nebraska State Historical Society, which is to be the custodian of all records and collections.

The legislature of Mississippi at its recent session failed to make an appropriation for the maintenance of the Department of Archives and History of the State of Mississippi for the next two years. The Governor, however, has been authorized to borrow funds sufficient to maintain the Department for two years, and thus there will fortunately be no interruption in the work that is being carried on under the supervision of the Director, Dr. Dunbar Rowland.

The difficulties which caused the suspension of *The Washington Historical Quarterly* with the October, 1908, number have been removed and the *Quarterly* has again made its appearance. A policy of hearty coöperation has been established between the University of Washington and the Washington University State Historical Society, with the result that the historical interests of the State and of the Pacific Northwest will receive more adequate attention in the future.

The fifth annual meeting of the Mississippi Valley Historical Association will be held under the auspices of Indiana University at

Bloomington, Indiana, on May 23, 24 and 25, 1912. The Teachers' Section of the Association will hold two joint sessions with the History Section of the Indiana State Teachers' Association. An interesting program has been arranged. Full particulars concerning the meeting may be secured from Professor James A. Woodburn of Bloomington, Indiana.

#### THE STATE HISTORICAL SOCIETY OF IOWA

The biography of *George Wallace Jones*, written by Dr. John C. Parish, has been distributed to members.

Mr. Jacob Van der Zee's volume dealing with the immigration, settlement, and life of *The Hollanders in Iowa*, which will make a book of over four hundred pages, is now in the hands of the printers.

A volume of three hundred and thirty pages containing a *History of Senatorial Elections in Iowa*, written by Dr. Dan Elbert Clark, is now in the hands of the binders and will probably be distributed to members during May.

Dr. Frank E. Horack, Secretary of the Society, has been appointed a member of the Committee on Methods of Teaching the Study of Government which was created by the American Political Science Association at its last annual meeting.

Dr. John L. Gillin, Professor of Political Economy and Sociology in the State University of Iowa, and a member of The State Historical Society of Iowa, has accepted a professorship in the University of Wisconsin beginning with the school year of 1912-1913.

For several years Mr. Johnson Brigham, State Librarian of Iowa, has been preparing a biography of Senator James Harlan for publication by the Society in the *Iowa Biographical Series*. The work is now nearly completed and the volume will be put to press during the summer.

The following persons have recently been elected to membership: Mr. Dan Eppelsheimer, Griswold, Iowa; Mr. Nathaniel W. Beebe, Hampton, Iowa; President John G. Bowman, Iowa City, Iowa;

Mr. Edward B. Brande, Grinnell, Iowa; Mr. Ed. H. Campbell, Battle Creek, Iowa; Mr. John W. Campbell, Fort Dodge, Iowa; Mr. W. S. Crowther, Ripon, Wisconsin; Mr. J. W. Doxsee, Monticello, Iowa; Mr. Theodore W. Hawkinson, Walker, Iowa; Mr. O. T. Hokaasen, Ames, Iowa; Mr. W. I. Atkinson, Clarksville, Iowa; Mr. R. H. Belknap, West Union, Iowa; Mr. G. H. Bickel, Vinton, Iowa; Mr. C. H. E. Boardman, Marshalltown, Iowa; Mr. Austin Burt, Waterloo, Iowa; Mr. Philo D. Clark, Red Oak, Iowa; Dr. E. D. Cook, Harlan, Iowa; Mr. Hugh L. Cooper, Keokuk, Iowa; Mr. S. H. Dodson, Indianola, Iowa; Mr. James W. Ellis, Maquoketa, Iowa; Mr. C. A. Ficke, Davenport, Iowa; Mr. Gerrit Fort, Omaha, Nebraska; Mr. H. T. Fuller, Mason City, Iowa; Mr. J. W. Garner, Columbus City, Iowa; Mr. J. G. Hempel, Elkader, Iowa; Mr. C. B. Hughes, West Union, Iowa; Miss Ada F. Hutchinson, Iowa City, Iowa; Mr. Joseph M. Junkin, Red Oak, Iowa; Mr. J. B. Kent, Rolfe, Iowa; Mr. D. C. Knupp, Vinton, Iowa; Mr. Paul J. Kruse, Mapleton, Iowa; Mr. J. Geo. Laird, Cedar Rapids, Iowa; Miss Harriet Lake, Independence, Iowa; Mr. G. E. McFarland, Omaha, Nebraska; Mr. J. F. McNeill, Oskaloosa, Iowa; Mr. John A. Marquis, Cedar Rapids, Iowa; Mr. G. E. Marsh, Osage, Iowa; Mr. John H. Morrell, Ottumwa, Iowa; Mrs. William Musser, Iowa City, Iowa; Mr. Olaf Olson, Rock Rapids, Iowa; Mr. Addison M. Parker, Des Moines, Iowa; Mr. A. M. Place, Waterloo, Iowa; Mr. H. H. Polk, Des Moines, Iowa; Mr. Joseph F. Porter, Davenport, Iowa; Mr. W. P. Powell, Cedar Rapids, Iowa; Mr. John S. Runnells, Chicago, Illinois; Mr. S. J. Sayers, Jefferson, Iowa; Mr. H. W. Seaman, Clinton, Iowa; Mr. W. F. Severa, Cedar Rapids, Iowa; Mrs. Clara Stuart Soesbe, Greene, Iowa; Mr. Geo. W. Speer, Indianola, Iowa; Mr. A. P. Spencer, Oskaloosa, Iowa; Mr. J. W. Sullivan, Algona, Iowa; Mr. G. M. Titus, Muscatine, Iowa; Mr. Frank D. Tomson, Cedar Rapids, Iowa; Mr. Robt. B. Wallace, Council Bluffs, Iowa; Mr. H. C. White, Garrison, Iowa; Mr. Alfred Williams, Perry, Iowa; Mr. Oscar Ainley, Perry, Iowa; Mr. John H. Blair, Des Moines, Iowa; Mr. Chas. A. Briggs, Spirit Lake, Iowa; Mr. Chas. C. Clark, Burlington, Iowa; Miss Clarissa Clark, Ames, Iowa; Miss Isabelle W. Coan, Clinton, Iowa; Mr. James C. Davis, Des

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Moines, Iowa; Mr. Walter M. Davis, Iowa City, Iowa; Miss Olive S. Dickerson, Lake Park, Iowa; Miss Caroline L. Dodge, Council Bluffs, Iowa; Mr. Charles M. Dutcher, Iowa City, Iowa; Mr. C. F. Ensign, Marion, Iowa; Miss Lillian G. Goodwin, Cedar Falls, Iowa; Mr. C. J. Haas, Marion, Iowa; Mr. William H. Harwood, Des Moines, Iowa; Mr. F. Hollingsworth, Boone, Iowa; Mr. C. S. Hopkins, Lake City, Iowa; Mr. Francis M. Hunter, Ottumwa, Iowa; Mr. Henry F. Johnson, Pella, Iowa; Mr. F. Junkermann, Cedar Rapids, Iowa; Mr. B. F. Kauffman, Des Moines, Iowa; Mr. G. A. Kenderdine, Iowa City, Iowa; Mr. E. T. Koch, Cedar Rapids, Iowa; Miss Lois O'Brien, North English, Iowa; Miss Alice E. Page, Cedar Rapids, Iowa; Mr. Lorne F. Parker, Cherokee, Iowa; Mr. M. F. Price, Iowa City, Iowa; Mr. W. L. Read, Des Moines, Iowa; Mr. A. G. Rigby, Independence, Iowa; Mr. John F. Schee, Indianola, Iowa; Mr. H. P. Scholte, Pella, Iowa; Mr. W. T. Shepherd, Harlan, Iowa; Mr. A. J. Small, Des Moines, Iowa; Mr. J. C. Smiley, Denver, Colorado; Mr. Chas. B. Soutter, Cedar Rapids, Iowa; Mrs. Edgar H. Stone, Sioux City, Iowa; Mr. H. Toering, Orange City, Iowa; Mr. F. L. Vandegrift, Kansas City, Missouri; and Mr. Thos. H. Whitney, Atlantic, Iowa. The following persons were elected to life membership: Mr. S. W. Mercer, Iowa City, Iowa; and Mr. B. F. Shambaugh, Iowa City, Iowa.

#### MEETINGS ON TUESDAY, MARCH 26, 1912

On Tuesday, March 26, 1912, Professor Albert Bushnell Hart of Harvard University, who had been spending a month at Grinnell College, was the guest of The State Historical Society of Iowa. At ten o'clock in the forenoon Professor Hart delivered an address on *The Soul of Government* at an Assembly of the faculty and students of the State University of Iowa.

In the afternoon at three o'clock a Conference-Seminar on Research in Iowa History was held in the rooms of the Society. Research associates and assistants in the Society and professors of history, economics, sociology and political science in the leading colleges of Iowa participated in this Conference-Seminar. Professor Hart led the discussion on *The Teaching of History by the*

*Source Method.* Mr. Irving B. Richman of Muscatine spoke on *The Use of Sources as Illustrated by Researches in the Early History of California*. The discussion of the subject of *The Writing of Folk Literature* was opened by Dr. John C. Parish, now of Denver, Colorado. *The Application of History to the Solution of Current Problems* was the final subject of discussion and the leader was Professor John E. Brindley of the Agricultural College at Ames and Secretary of the Iowa Tax Commission.

In the evening at fifteen minutes past eight a reception was tendered by President and Mrs. Euclid Sanders to Professor Hart. At this time Professor Hart delivered an address on *Fraternity Among Historians*, and President Laenas G. Weld of Pullman Institute spoke entertainingly of his connection with The State Historical Society of Iowa of which he has for many years been a Curator.

In addition to Professor Hart those in attendance at the Conference-Seminar, together with the institutions represented, were: President Euclid Sanders, State Historical Society of Iowa, Iowa City; President E. W. Stanton, Iowa State College, Ames; President L. G. Weld, Pullman Institute, Pullman, Illinois; Mr. C. R. Aurner, State Historical Society of Iowa, Iowa City; Mr. John E. Brindley, Iowa State College, Ames; Mr. C. M. Case, Penn College, Oskaloosa; Mr. O. H. Cessna, Iowa State College, Ames; Mr. Dan E. Clark, State Historical Society of Iowa, Iowa City; Mr. O. B. Clark, Drake University, Des Moines; Miss Clara M. Daley, State University of Iowa, Iowa City; Mr. S. H. Dodson, Simpson College, Indianola; Mr. J. L. Gillin, State University of Iowa, Iowa City; Mr. F. E. Haynes, Morningside College, Sioux City; Mr. B. H. Hibbard, Iowa State College, Ames; Mr. F. E. Horack, State University of Iowa, Iowa City; Mr. Louis T. Jones, Penn College, Oskaloosa; Miss Anna M. Klingenhagen, State University of Iowa, Iowa City; Mr. Isaac A. Loos, State University of Iowa, Iowa City; Mr. Jesse Macy, Grinnell College, Grinnell; Mr. Reuben McKittrick, State Teachers College, Cedar Falls; Mr. Chas. Meyerholz, State Teachers College, Cedar Falls; Miss Alice E. Page, Coe College, Cedar Rapids; Mr. C. E. Payne, Grinnell College, Grinnell; Mr.

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John C. Parish, State Historical Society of Iowa, residence at Montclair, Col.; Mr. Paul F. Peck, Grinnell College, Grinnell; Mr. Paul S. Peirce, State University of Iowa, Iowa City; Mr. Louis Pelzer, State University of Iowa, Iowa City; Mr. H. J. Peterson, State Teachers College, Cedar Falls; Mr. H. G. Plum, State University of Iowa, Iowa City; Mr. E. K. Putnam, Davenport Academy of Science, Davenport; Miss Sara F. Rice, State Teachers College, Cedar Falls; Mr. Irving B. Richman, State Historical Society of Iowa, residence at Muscatine; Miss Sara M. Riggs, State Teachers College, Cedar Falls; Mr. L. B. Schmidt, Iowa State College, Ames; Mr. Benj. F. Shambaugh, State University of Iowa, Iowa City; Mr. C. R. Shatto, Leander Clark College, Toledo; Mr. J. Van der Zee, State Historical Society of Iowa, Iowa City; Mr. C. W. Wassam, State University of Iowa, Iowa City; Mr. W. C. Wilcox, State University of Iowa, Iowa City; Mr. G. P. Wyckoff, Grinnell College, Grinnell.

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## NOTES AND COMMENT

Professor Paul S. Reinsch of the University of Wisconsin is lecturing during the current year as Roosevelt Professor at the University of Berlin.

The Iowa Daughters of the American Revolution are planning to mark the pioneer trail running from Dubuque through Centerville to Council Bluffs.

Miss Emma Helen Blair, who is well known for her editorial and research work in connection with various important series of publications, died at Madison, Wisconsin, on September 25, 1911.

In pursuance of recent changes in the rules governing the use of the archives of the Department of War at Washington, D. C., properly accredited investigators will now be accorded ready access to these archives.

Professor Frederick E. Bolton, who for many years has been at the head of the School of Education in the State University of Iowa, has accepted a similar position in the State University of Washington at Seattle.

Miss Elizabeth H. West, who for a number of years has been connected with the Library of Congress, has been elected to the position of Archivist in Texas. This position was created by the legislature at its last session.

The eighteenth International Congress of Americanists will be held in London from May 27 to June 1, 1912, for the discussion of subjects connected with the aboriginal races and the discovery and exploration of North and South America.

The Iowa Masonic Grand Lodge will mark by a bronze tablet the site in the city of Burlington of the first Masonic hall within the limits of the present State of Iowa. Des Moines Lodge number one which met in this hall dates from November 21, 1840.

The surviving members of Crocker's Iowa Brigade, which immortalized itself at the battle of Shiloh, celebrated the fiftieth anniversary of that memorable event on the scene of the conflict on April 7, 1912. The principal address was delivered by Major John F. Lacey.

The Iowa Association of Southern California held its annual picnic in Eastlake Park at Los Angeles, on February 22nd, and more than fifty thousand former Iowans were in attendance. E. S. Ormsby was elected President of the Association; J. A. Rominger, Vice President; C. H. Parsons, Secretary; and Frank H. Nichols, Treasurer.

Ezra Meeker of Oregon Trail fame, now eighty-one years of age, spent several days in Nebraska and western Iowa during March in the effort to arouse interest in the movement to mark the great trail. Mr. Meeker is devoting his declining years to the attainment of this object, and he has created much attention by his ox team and covered immigrant wagon.

An Oregon Trail Memorial Association has been formed in Nebraska for the purpose of raising means to mark the famous Oregon Trail across the State. The legislature appropriated two thousand dollars for the purpose and it is hoped to raise further funds through the coöperation of the various historical and patriotic societies in the State. Considerable progress has been made and a number of markers have been erected.

A Commission on Western History has been established at Harvard University for the purpose of gathering materials relative to western American history and of giving recognition to the part played by the West in the building of the Nation. While the students of American history in Harvard University will receive the immediate benefit of the work of this commission the movement is national in its scope and should be of especial interest in the West. The members of the commission are: Andrew McFarland Davis of Cambridge, Horace Davis of San Francisco, Grenville M. Dodge of Council Bluffs, Charles G. Dawes of Chicago, Charles Moore of Detroit, Howard Elliott of St. Paul, F. A. Delano of Chicago, Fred-

erick J. Turner of Harvard University, A. C. Coolidge of the Harvard University Library, and E. H. Wells of Cambridge.

DANIEL H. TALBOT

Daniel H. Talbot passed away at the Samaritan hospital in Sioux City on December 26, 1911. Mr. Talbot was born near Iowa City in 1850 and in 1869 he removed to Sioux City, where for a time he was engaged in the business of brick making. Later he went into the real estate business and by 1876 he had become so successful that he employed nearly twenty-five clerks in his office. Later he purchased about five thousand acres of farm land in Plymouth County for the purpose of carrying on experiments in scientific farming along the lines of certain theories which he had worked out for himself. In this venture, however, he was disappointed, and in fact the greater part of his large fortune melted away in subsequent years through the failure of various experimental enterprises and the depreciation of land values which followed the boom period in Sioux City and vicinity.

Mr. Talbot, however, made important contributions to scientific knowledge. He made a large collection of ornithological and other zoölogical specimens, a portion of which he later sent to a museum in St. Louis. He also gathered a large library of books on scientific subjects which he donated to the State University of Iowa.

JAMES B. WEAVER

After a short illness James B. Weaver passed away at the home of his daughter in Des Moines on February 6, 1912, at the age of seventy-nine. Mr. Weaver was born in Dayton, Ohio, on June 12, 1833. Twenty-one years later he graduated from the Law School of the University of Cincinnati. Shortly afterward he came to Iowa, where his father had been living since 1843, and engaged in the practice of law at Bloomfield.

During the early months of the Civil War he enlisted in the Union army, and served with distinction in many of the important battles of the war, including the siege of Fort Donelson and the battle of Shiloh. He was several times promoted for gallant conduct and in 1864 he was brevetted Brigadier General.

After the close of the war Mr. Weaver returned to Iowa and immediately became prominent in the field of politics. In 1865 he received much support for the Republican nomination for Lieutenant Governor. In the following year he entered upon a four years term of service as District Attorney in the Second Judicial District. In 1875 he was a prominent candidate for the nomination for Governor at the Republican State Convention. It was but a little later that the Greenback party made its appearance, and in the ranks of this party Mr. Weaver was a leading national figure, being the candidate of the party for the presidency in 1880. He served three terms in Congress (from 1879 to 1881 and from 1885 to 1889) as Representative from the Sixth District of Iowa. In 1892 he was again a candidate for President of the United States on the Populist ticket.

Mr. Weaver's public career was long and varied, and while he made many political enemies during his life-time he had a host of personal friends among whom he will long be remembered.

## CONTRIBUTOR

**PAUL WALTON BLACK**, Fellow in Sociology at The State University of Iowa. Born near Plymouth, Illinois, March 29, 1887. Attended Christian University Academy at Canton, Missouri, 1904-1906. Graduated from Drake University, 1910. Received the degree of M. A. at The State University of Iowa, 1911. Scholar in Sociology, 1910-1911, and Fellow in Sociology, 1911-1912, at The State University of Iowa. Recently elected Fellow in Sociology in The University of Wisconsin for 1912-1913. Member of the American Economic Association, American Sociological Society, and The State Historical Society of Iowa.



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## HISTORY OF THE CODES OF IOWA LAW

### III

#### THE REVISION OF 1860

##### INTRODUCTION

The *Revision of 1860* cannot be called a new code, for it followed the *Code of 1851* in arrangement and also to a great extent in subject matter. Its purpose was to gather in one collection all of the statute laws enacted during the period between 1851 and 1860 and to give to the State a new civil and criminal practice act. The Commissioners to whom the work was intrusted did not attempt a codification; they "intended a mere revision, such as would be met by a compilation and arrangement in proper order of the existing laws, without change".<sup>1</sup> The Commissioners clearly stated their position when they declared: "This revision which we offer you, does not need to be enacted, as it is the law as it exists already. We add nothing to the law — subtract nothing therefrom — make no change of word or phrase — merely of the arrangement of the existing law."<sup>2</sup> Consequently the *Revision of 1860* was for the most part simply a copy of the *Code of 1851*, with the addition of subsequent acts of the legislature. Such a method has never since been followed in making a codification of the laws of this State.

Two parts of the *Revision of 1860*, however, were codified to a certain degree and not merely revised. By the act providing for the revision the Commissioners were "directed to prepare a code of civil and criminal procedure".<sup>3</sup>

<sup>1</sup> *Revision of 1860*, Preface, p. iv.

<sup>2</sup> *Revision of 1860*, Preface, p. v.

<sup>3</sup> *Laws of Iowa*, 1858, Chap. 40, pp. 47, 48.

Codes of civil and criminal procedure were accordingly drafted, the acts in the *Code of 1851* being made the foundation and the additions thereto being prepared by the Commissioners.

#### REASONS FOR THE REVISION OF 1860

The causes which brought about the revision were numerous. In his last message to the legislature Governor Grimes had declared that the edition of the *Code of 1851* was exhausted, as was also the supply of some of the session laws.<sup>4</sup> Then, too, the period from 1850 to 1860 was one of great expansion for the new State, both in population and in commercial enterprise.<sup>5</sup> For this reason much new and varied legislation was scattered throughout the several volumes of session laws. In addition, the *Code of 1851* had caused a great change in the manner of pleading, which seemed not to be fully understood by the legal profession, and as a consequence widely different methods were used in different parts of the State. In speaking of the introduction of simple code pleading, the Commissioners deplored the fact that the courts had been inclined to hold that the *Code of 1851* did not apply to chancery practice as well as to law.<sup>6</sup> They declared that there was no case deciding that the Code applied equally to equity and legal procedure, although it had been so intended by Judge Mason, its framer. The opponents of this view were successful, they stated, in insisting "that it only in some very undefined measure, so applies, and in many decisions a want of such applicability, in the same undefined way, seems assumed."<sup>7</sup>

<sup>4</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 61.

<sup>5</sup> Horack's *The Government of Iowa*, pp. 10, 11.

<sup>6</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 191.

The exact title of this report is *Report of the Code Commissioners*, but the above title is used to distinguish it from a similar report on the criminal practice act.

<sup>7</sup> *Report of the Code Commissioners on the Civil Practice Act*, pp. 191, 192.

Besides the confusion existing as to the applicability of the *Code of 1851* alike to law and equity, the Commissioners declared in their report that there was confusion in regard to procedure even in law cases. They state:

Even at law, it [the *Code of 1851*] has not secured that prompt justice, which it was meant to do; too many technical constructions have been applied to it, and it has been interpreted too much in the light of the very forms and precedents which it was designed to abate and ignore. We know that human language cannot be put into a code which will not need construction; the only hope of the reformer is to avoid this, as much as may be possible, and that such construction may be made by a mind imbued with the genius of the act, so that each extension of it to a new case may be in harmony with its main purpose.<sup>8</sup>

Since there appeared to be so much confusion arising from a misunderstanding of the intent of the *Code of 1851* the Commissioners declared that "these things being thus, the Code being in many applications doubtful, and in some having clearly failed to secure its purpose, the General Assembly imposed upon us, the duty, among other things, of making a code of civil practice."<sup>9</sup>

Still another reason necessitating a revision was the fact that some of the laws in the *Code of 1851* had proved to be unsatisfactory. This was especially true of the lax divorce law, which was amended even before a revision was provided for. The *Code of 1851* had provided that the Judges of the Supreme and District Courts should call the attention of the legislature to any defective portions of such Code.<sup>10</sup> One Judge, Thomas S. Wilson, had reported in 1854 and in his report had enumerated several defects and

<sup>8</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 193.

<sup>9</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 195.

<sup>10</sup> *Code of 1851*, Section 1588. "Each of the judges of the supreme and district courts shall report to the legislature at each regular session thereof all omissions, discrepancies, or other evident imperfections of the law, which have fallen under his observation."

conflicts in the *Code of 1851*.<sup>11</sup> Most of the desired amendments, of course, were to be found in the session laws, but it was highly important that they be brought together in one act.<sup>12</sup>

The paramount reason for a revision, however, was the fact that on September 3, 1857, the new State Constitution, adopted the month previous, went into effect.<sup>13</sup> In his second biennial message Governor Grimes had stated that all of the general laws of the State required some modifications to adapt them to provisions of the new Constitution.<sup>14</sup> And Governor Lowe in his inaugural address had also urged the framing of a new procedural act. In part he declared that "six years practice under the Code has brought to light many defects, . . . which ought now to be reformed."<sup>15</sup> In fact, the act providing for the revision stated that the Commissioners were "appointed by the

<sup>11</sup> The report of Judge Thomas S. Wilson is a very rare document of nine printed pages and is confined, as he says to "the most glaring" of the imperfections.

<sup>12</sup> The school laws, especially, needed a thorough revision. They had become so unsatisfactory that in 1856, by an act approved on July 14, 1856, the Governor was authorized to appoint three commissioners, "whose duty it shall be to revise and improve the school laws of Iowa, and report their proceedings to the next General Assembly". Governor Grimes appointed Horace Mann, Amos Dean, and F. E. Bissell. These gentlemen prepared an important report, but it failed of passage in the legislature. For references on the work of this commission see *Laws of Iowa*, 1856, Extra Session, p. 78; *Appendix to the Journal of the House of Representatives*, 1856-1857, pp. 191-200; *Report of the Superintendent of Public Instruction*, pp. 13-20, found in *Legislative Documents*, 1857; and Parker's *Higher Education in Iowa*, pp. 27, 28.

<sup>13</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 109; also *Revision of 1860*, p. 988.

The provisions in regard to the taking effect of the Constitution are found in Article XII, Section 13.

<sup>14</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 41.

<sup>15</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 124.

Legislature to conform the Laws of the State to the Constitution and perform other duties''.<sup>16</sup>

Governor Lowe was anxious that a commission be appointed in order to prepare a practice act. In an address to the legislature on the 13th of January, 1858, he declared:

But in view of the great amount of other business which will occupy your attention during the session, I beg to recommend the appointment of two of three competent legal gentlemen to act at once in conjunction with special committees constituted for that purpose, in revising, amending and getting up a more efficient and perfect practice act, to the end that the same may go out with the publication of the other laws in the spring — and the people of this State be blessed with a system of civil and criminal procedure, under which the great principles of justice and right can be administered — all wrong suppressed — goodness and virtue protected — and evil doers punished.<sup>17</sup>

In the same address Governor Lowe also suggested that the publication of a new edition of the Code might be left to private enterprise, as he had been informed that certain persons had undertaken such a work.<sup>18</sup>

<sup>16</sup> *Revision of 1860*, Preface, p. iii.

In the inaugural address of Governor Lowe some of the changes required in the laws by the adoption of the Constitution are indicated in the following paragraphs:

"The new Constitution contemplates important legislation upon our judiciary and militia system, upon the school lands and funds, and a radical change in our educational department, as well as other subjects, upon all [of] which it will afford me pleasure to communicate freely with you during your deliberations.

"The questions of currency and agriculture are new subjects of legislation in this State, authorized and enjoined by the Constitution, and possess no ordinary significance."—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 125.

<sup>17</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 124.

<sup>18</sup> The Governor evidently referred to C. Ben Darwin, for in the *Senate Journal*, 1858, p. 93, may be found the statement that "Mr. Rankin had leave to introduce Senate File No. 21, A bill for an Act to provide for the purchase of the revised Statutes of Iowa, in course of preparation by C. Ben. Darwin," which after being read was referred to the Committee on the Judiciary. Nothing seems to have been reported from the committee on this bill, however.

There seems to have been very little newspaper comment in regard to the proposals for a revision. All classes apparently took it for granted that the necessity was urgent, and other issues of the period being of overshadowing importance,<sup>19</sup> the discussion concerning the revision and the method of procuring the same was not very general, but seems to have been limited to persons holding official positions. Among the latter, especially among members of the legislature, there was a large number of methods proposed. Nevertheless the simplest plan was finally adopted and a commission of three men was appointed.

#### THE CREATION OF THE CODE COMMISSION

The Seventh General Assembly convened at Des Moines on the 11th of January, 1858,<sup>20</sup> and was the first regular session of the legislature under the new Constitution. On Wednesday, the 20th of January, Senator John W. Rankin introduced in the Senate a bill providing for the appointment of commissioners "to revise and codify the laws of the State of Iowa."<sup>21</sup> Five days later the bill was reported back from the Committee on the Judiciary.<sup>22</sup> A majority of the Committee had proposed a substitute for the Rankin bill and recommended its passage. The minority of the Committee, consisting of Daniel Anderson and William Loughridge, however, reported that in their opinion "it would be proper and expedient to employ three Attorneys to arrange and perfect the system of practice, civil and criminal."<sup>23</sup> The minority declared that the plan adopted by the majority would be inexpedient because no change of a material nature was needed; because it would mean an

<sup>19</sup> Slavery and its attendant issues were the all important subjects of public discussion at this period.

<sup>20</sup> *House Journal*, 1858, p. 3.

<sup>21</sup> *Senate Journal*, 1858, p. 87.

<sup>22</sup> *Senate Journal*, 1858, pp. 109, 110.

<sup>23</sup> *Senate Journal*, 1858, p. 110.

increased expense; and lastly because the plan of the majority would involve an extra session a year hence, and the laws would be needed before that time. After some discussion the bill, substitute, and report were all laid on the table.<sup>24</sup>

Two days later this bill was discussed again in the Senate, where it was again tabled.<sup>25</sup> Shortly after it had been laid on the table for the second time the following concurrent resolution was received from the House:

*Resolved*, (the Senate concurring,) that Wm. Smith of Linn county, W. T. Barker, of Dubuque county and C. Ben. Darwin, of Des Moines county, be and they are hereby appointed Commissioners to aid and assist the Judiciary Committees of both Houses in drafting a Code of civil and criminal procedure, and adapt the laws now in force to the provisions of the Constitution.<sup>26</sup>

This resolution did not interfere with the Senate's consideration of its own bill and for the third time it was again discussed, along with the substitute and minority report.<sup>27</sup> After spending a considerable part of the day on Thursday, January 28th, in considering the bill in the Committee of the Whole, the substitute was recommended for adoption, along with certain amendments thereto.<sup>28</sup> On the following day this report of the Committee of the Whole was taken up and indefinitely postponed.<sup>29</sup>

The Rankin bill now being out of the way, the Senate turned its attention to the concurrent resolution noted above. After several attempts had been made to amend it or have a substitute adopted, the following amendment was added, and the resolution passed:

<sup>24</sup> *Senate Journal*, 1858, p. 111.

<sup>25</sup> *Senate Journal*, 1858, pp. 124, 125.

<sup>26</sup> *Senate Journal*, 1858, p. 125.

<sup>27</sup> *Senate Journal*, 1858, p. 131.

<sup>28</sup> *Senate Journal*, 1858, p. 132.

<sup>29</sup> *Senate Journal*, 1858, p. 133.

And that the same shall have been enacted as laws by the General Assembly, that said commissioners shall arrange and index all of the General Laws into one volume, to be published by order of the General Assembly; said volume to contain all general laws in force in the State.<sup>30</sup>

After making a slight amendment, in which the Senate concurred, the resolution passed the House.<sup>31</sup> The Commissioners were also allowed, by a Senate resolution, the same amount of stationery as was allowed members of the Senate.<sup>32</sup>

The Commissioners thus appointed immediately set to work upon the duties assigned to them, but after becoming better acquainted with the difficulty of their task they reported to the legislature that it would be impossible to complete their work before the close of the session.<sup>33</sup> Thereupon, Mr. Henry H. Trimble of Davis County introduced Senate File No. 98, which was a joint resolution permitting the Commissioners "to continue their work, and report at an adjourned session".<sup>34</sup> This resolution was referred to the Committee on Ways and Means, who reported it back with the recommendation that it be indefinitely postponed.<sup>35</sup> This action evidently did not meet with the approval of the Senate, for on the motion of Mr. Daniel Anderson "the resolution was re-committed" to the Ways and Means Committee with the following instructions:

That the committee report upon the necessity of republishing laws out of print, the probable cost for such reprint, and the best probable means of revising the laws of the State, and the expediency of an adjourned session; whether good economy, together

<sup>30</sup> *Senate Journal*, 1858, pp. 133-135.

<sup>31</sup> *Senate Journal*, 1858, p. 144.

<sup>32</sup> *Senate Journal*, 1858, p. 145.

<sup>33</sup> *Senate Journal*, 1858, p. 161. See also *Revision of 1860*, Preface, p. iii.

<sup>34</sup> *Senate Journal*, 1858, p. 225.

<sup>35</sup> *Senate Journal*, 1858, p. 247.

with the demands of the people, for a more concise system of laws of a general character, together with a reformed system of practice in courts of justice, can be fully provided for without such adjourned session.<sup>36</sup>

On the 20th of February, 1858, the committee again reported, and laid before the Senate the correspondence between it and the Revising Commissioners and in addition a resolution which urged the Commissioners to complete their labors by the 10th of April, 1858, at the same time calling upon the legislature to remain in session until after that date.<sup>37</sup> This report and resolution was vigorously attacked and after being amended the original resolution passed the Senate with the following title:

JOINT RESOLUTION,

Authorizing the Commissioners to conform the laws of the State to the Constitution, and report to the present session of the Legislature the same. Also, to prepare a Code of civil and criminal procedure, and revise the laws and report the same at such time as the Legislature may designate.<sup>38</sup>

The above resolution passed the House on February 23, 1858,<sup>39</sup> but four days later it was vetoed in the following message from the Governor:

*Gentlemen of the Senate and House of Representatives.*

I return, with my objections, to the Senate whence they originated, the Joint Resolutions authorizing the Commissioners to conform the laws of the State to the Constitution, and report to the present session of the Legislature the same: Also to prepare a code of civil and criminal procedure and revise the laws, and report the same at such time as the Legislature may designate.

This is no uncommon form of legislation, but it should be remembered that Joint Resolutions directing something to be done by third persons, either during or after the termination of the legislative

<sup>36</sup> *Senate Journal*, 1858, p. 248.

<sup>37</sup> *Senate Journal*, 1858, pp. 261-265.

<sup>38</sup> *Senate Journal*, 1858, p. 268.

<sup>39</sup> *House Journal*, 1858, pp. 355, 356.

session, take the form as well as the force of law, and are subject to the same regulations and solemnities in their enactments as other bills. The Constitution of this State requires the style of all laws to be, "*Be it enacted by the General Assembly of the State of Iowa.*" The resolutions in question are wanting in these enacting words of the Constitution.

It has frequently been held that without them the law is not and cannot be valid, nor will equivalent words satisfy the absolute requirement of the Constitution in this respect.

Again, the third and fourth resolutions require the Codifying Commissioners to perform certain duties during your present session, without making provisions for their taking effect immediately by publication: they will therefore have no binding efficacy until published by due course of law, when they will become negatory by loss of time, and ought not to encumber the Statute book.

The first and second resolutions, fixing the day of adjournment, and prohibiting under certain circumstances the introduction of new business after a given day, are intended only to prescribe a rule of action for the General Assembly itself — subject at any time to be changed or altered at the discretion of the two Houses. Yet they are inseparably coupled with other enactments having the force of law, and must necessarily be published and bound up with the laws of the State, long after they have expended their force and cease to have any operation.

This is a system of legislation I think had better not be indulged in, and therefore with great respect I return the resolutions with these my objections.

RALPH P. LOWE.<sup>40</sup>

The objections of the Governor were sustained in the Senate by the decisive vote of thirty to one.<sup>41</sup> Nevertheless, the Senate was determined to provide for the revision before the close of the session and on March 3, 1858, Senator John W. Rankin introduced Senate File No. 154, which was "a bill for an act providing for a revision of the Laws of Iowa, and the preparation of a Code of civil and criminal

<sup>40</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 192, 193; also *Senate Journal*, 1858, p. 330.

<sup>41</sup> *Senate Journal*, 1858, pp. 331, 332.

procedure".<sup>42</sup> When this bill came up for consideration Mr. Samuel J. Kirkwood moved to have the words "and codify" inserted after the word "revise", and this amendment was adopted in the Senate.<sup>43</sup> After several other amendments, all proposed by Mr. Kirkwood, had been adopted, the bill was put to a vote and carried by the overwhelming majority of twenty-seven to four.<sup>44</sup>

The above bill passed the House after slight amendment, by the vote of forty-five to eighteen,<sup>45</sup> and then returned to the Senate where, upon the motion of Mr. Kirkwood, the House amendments were unanimously agreed to.<sup>46</sup> This act, which received executive approval on March 11, 1858, reads as follows:

Section 1. *Be it enacted by the General Assembly of the State of Iowa*, That the Commissioners appointed by the Legislature to conform the laws of the State to the Constitution and perform other duties, are hereby directed to prepare a code of civil and criminal procedure, and revise and codify the laws of the State and have their report ready for publication by the first day of September, 1858.

Sec. 2. Immediately after filing their report by said Commissioners, the Secretary of State shall procure to be printed 500 copies of said report, and one month previous to the next session of the General Assembly whether the same be an extra or regular one, shall mail to each member thereof one copy of such printed report and shall retain the residue for the use of the General Assembly.<sup>47</sup>

Though it thus appears that the Senate took the leading action later in the session relative to the revision of the laws, several original measures were also introduced in the

<sup>42</sup> *Senate Journal*, 1858, p. 355.

<sup>43</sup> *Senate Journal*, 1858, p. 370.

<sup>44</sup> *Senate Journal*, 1858, p. 371.

<sup>45</sup> *House Journal*, 1858, pp. 547, 548.

<sup>46</sup> *Senate Journal*, 1858, pp. 424, 425.

<sup>47</sup> *Laws of Iowa*, 1858, Ch. 40, pp. 47, 48.

House earlier in the session, and one of these provided for the creation of the Revising Commission. During the first week of the session, on January 13, 1858, Mr. D. A. Mahoney of Dubuque offered the following resolution:

*Resolved*, That a Committee of seven be appointed by the Chair, whose duty it shall be to report to the House such alterations of and amendments to existing laws as will make them conform to the new Constitution.<sup>48</sup>

This resolution was laid upon the table and nothing further seems to have been done with it. Nearly two weeks later, on January 25th, Mr. W. H. Seevers of Oskaloosa offered a resolution calling for the appointment of commissioners "to aid and assist the Judiciary Committee in drafting a code of civil and criminal procedure."<sup>49</sup> For this resolution Mr. E. E. Cooley of Decorah offered a substitute which provided that the commissioners "revise and amend the General Statutes of the State, and report the same, with a complete code of civil and criminal procedure on the ——— day of ——— 1858, to an extra or adjourned Session of the General Assembly."<sup>50</sup> These resolutions were to have been acted upon the following day, but owing to the election of a United States Senator, they do not appear ever to have been again considered.<sup>51</sup>

The next move on the part of the House was the introduction of two resolutions by Mr. Lincoln Clark of Dubuque on the morning of January 27th. The first of these resolutions called for a commission "of three persons, learned in the law, . . . whose duty it shall be to revise the laws now in force, to expurgate repealed laws, and to frame

<sup>48</sup> *House Journal*, 1858, pp. 37, 38.

<sup>49</sup> *House Journal*, 1858, p. 126.

<sup>50</sup> *House Journal*, 1858, p. 126.

<sup>51</sup> At this election James W. Grimes was elected to succeed George W. Jones. — *House Journal*, 1858, pp. 128-131. See also Clark's *History of Senatorial Elections in Iowa*, Ch. V.

a system of laws in pursuance of the subjects and classification of the new Constitution". The second resolution provided that the system of laws embraced in the first resolution should contain certain specified features. Among these features was a provision for the establishment of a Commissioner's Court, the creation of a Court of Common Pleas, the establishment of the office of County Auditor, a provision calling for the organization of townships for the assessment of property and the collection of revenue, the separation of the offices of County Treasurer and Recorder, and the creation of the office of Supervisor of Roads.<sup>52</sup>

Mr. W. H. Seevers immediately proposed a substitute which provided that the commissioners "aid and assist the Judiciary Committees of both Houses" in the work of revision.<sup>53</sup> This substitute was adopted by the vote of fifty-one to seventeen. Mr. Seevers then moved that the blanks in the resolution be filled by the names of William Smyth of Linn County, Winslow T. Barker of Dubuque County, and C. Ben Darwin of Des Moines County, which motion was adopted by the vote of sixty-two to six.<sup>54</sup> The Senate, as already noted, adopted this resolution after slightly amending it.<sup>55</sup>

On the 4th of February Mr. C. J. L. Foster offered a resolution calling for the appointment of a committee of three "whose duty it shall be to report amendments to the Code of Iowa, to this House, in order that the same may be made to conform to the provisions of the New Constitution." This resolution was adopted and a committee consisting of C. J. L. Foster, D. A. Mahoney, and J. F. Ran-

<sup>52</sup> *House Journal*, 1858, pp. 136, 137.

<sup>53</sup> *House Journal*, 1858, p. 137.

<sup>54</sup> *House Journal*, 1858, p. 138.

<sup>55</sup> *Senate Journal*, 1858, pp. 133, 134, 135.

dolph was appointed.<sup>56</sup> There is no evidence, however, that this committee ever performed any service.

On the same day Mr. George W. McCrary of Keokuk tendered a resolution instructing the Code Commissioners to confine themselves "to harmonizing" the laws to the new Constitution, "and preparing such additional acts as are necessary to carry out the same." This resolution did not meet with the approval of the House, however, and was not concurred in.<sup>57</sup>

Five days later a resolution was introduced in the House by Mr. T. Walter Jackson calling upon the Commissioners to report their progress to the House.<sup>58</sup> Consequently, on the 23rd of February the Commission reported very fully upon its actions from the time of its appointment. It appears that the Joint Judiciary Committees had given instructions to the Commissioners to prepare acts in the following order:

- 1st. A Code of practice applicable to proceedings at law.
- 2d. A Chancery practice.
- 3d. A criminal practice.
- 4th. The adaptation of existing laws to the New Constitution.
- 5th. So changing the criminal law to the provisions of the New Constitution, that Justices may have some original jurisdiction.<sup>59</sup>

From time to time the Code Commission sent to the House drafts of bills intended to be incorporated into the new Code when completed, and in some instances these bills were immediately passed by an overwhelming vote.<sup>60</sup>

Late in the session Mr. B. F. Gue of Big Rock introduced House File No. 338, which provided for the printing and

<sup>56</sup> *House Journal*, 1858, pp. 207, 208.

<sup>57</sup> *House Journal*, 1858, p. 208.

<sup>58</sup> *House Journal*, 1858, p. 254.

<sup>59</sup> *House Journal*, 1858, pp. 360-363.

<sup>60</sup> Communications accompanying such bills are to be found in the *House Journal*, 1858, pp. 458, 477, 478.

binding of the report of the Commissioners and stipulated that it should be let "by contract with the lowest responsible bidder."<sup>61</sup> This bill was recommended for passage by the Committee on Expenditures, but was defeated by the vote of twenty-three to thirty-four.<sup>62</sup>

There appears to have been very little newspaper comment on the action taken by the Seventh General Assembly in providing for the revision of the laws. Indeed, there could be very little under the circumstances, as the need of such a work was apparent to all and the discussion of the minor details connected therewith was overshadowed by other more important questions of a national character.

#### THE CODE COMMISSIONERS

The gentlemen selected by the legislature met immediately after their appointment and organized for the work before them.<sup>63</sup> To Mr. Smyth was allotted the task of preparing the criminal code, to Mr. Darwin the law practice act, and to Mr. Barker the chancery act. It appears that C. Ben Darwin acted as Chairman of the Commission, and it was he who wrote the principal report to the legislature.<sup>64</sup>

Charles Ben Darwin was one of the leading lawyers of Burlington, a man of liberal education and imbued with a fondness for original investigation. In connection with his work on the *Revision of 1860* he made a study of practically all the practice acts in force in the United States and later he also prepared a code of laws for the State of Tennessee. After removing from Iowa he was for a time

<sup>61</sup> *House Journal*, 1858, p. 630.

<sup>62</sup> *House Journal*, 1858, p. 758.

<sup>63</sup> Quotation from the *Burlington Hawk-Eye* in *The Tipton Advertiser*, Vol. VI, No. 51, Thursday, December 8, 1859.

<sup>64</sup> Mr. Darwin took the most active part of any of the Commissioners in this work. He wrote a large portion of the reports and the other Commissioners met at his office in Burlington when finishing their work. No direct statement, however, can be found that Mr. Darwin was officially elected Chairman.

United States District Judge for the Territory of Washington. He died at Napa Asylum near San Francisco in the spring of 1901.<sup>65</sup>

The framer of the criminal code, William Smyth of Marion, was born in Tyrone County, Ireland, on the 3rd of January, 1824. Removing to Iowa from Pennsylvania in 1843, he studied law at Iowa City in the office of Judge J. P. Carleton and was admitted to the bar in 1846. In 1848 he opened an office at Marion, and became a leader in commercial affairs in Linn County. From 1853 to 1857 he served in the capacity of Judge of the Fourth Judicial Dis-

<sup>65</sup> Very little of a biographical nature is to be found concerning C. Ben Darwin. See *The Courts and Legal Profession*, Vol. I, p. 87; and the *Annals of Iowa*, Third Series, Vol. V, p. 160.

In *The Burlington Weekly Hawk-Eye* of Saturday, March 17, 1860, may be found sketches of the various members of the Commission written by "Linkensale", a correspondent. The following concerns Mr. Darwin:

"It would not be a bit fair to leave out pictures of the Code Commissioners from the very life-like and 'reliable' series of sketches which have from time to time appeared in 'these presents.' For, in the graphic style of Greeley, 'in the first place' the Code Commissioners are learned in the law — secondly, they are unanimously of opinion that they are good looking — and thirdly — they are.

"CHARLES BEN DARWIN, the author of the Civil Practice Act is known personally to many readers of the Daily Hawk-Eye. Let them not suppose, however, that his old familiar friend, that brown old coat of many a pleasant memory, adorns his body corporal whilst at the capital. He appears 'every day and Sunday too,' in a fine black suit, scrupulously neat. Go into the judges' room and you will find him by his desk, always at work and always standing. I have never seen him sitting down but once, and that was at the dinner table, though I did catch him a-napping one Sunday afternoon, with the Bible in one hand, at Chronicles 2:30, and Seward's big speech in the other. His orthodoxy, therefore, is not to be questioned, even whilst he is away from home. He is one of the most diligent, careful students I ever met. He gets up early every morning, takes a cold-water bath, and walks four miles before breakfast, after which, with short intermissions, he works away on the Code or revision of the laws till 9 or 10 o'clock at night. He is greatly respected here as a lawyer, and as much liked as a man. His remarks in the Senate and House in explanation of those portions of the Code in regard to which there was debate, have been clear, forcible, and able. Of an unsuspecting, generous, noble nature, it shall be no fault of mine if his merits are not universally appreciated."

See also *Proceedings of the Iowa State Bar Association*, Vol. VII, 1901, p. 80, for a short sketch of C. Ben Darwin.

strict. After serving on the Revising Commission he was appointed a member of the Committee on Legal Inquiry and he also assisted Governor Kirkwood in selling bonds during the early part of the Civil War.

In 1862 Judge Smyth received a commission as Colonel of the Thirty-First Iowa, but after a year's service he was forced to resign on account of ill health. In 1868 he was elected Congressman from Iowa and died while serving in that capacity on September 30, 1870.<sup>66</sup>

The third member of the Commission was Mr. Winslow T. Barker of Dubuque. Judge Barker presided over the Delaware County Circuit Court from 1869 until 1872 and represented his district in the House of Representatives in the Sixth and Eleventh General Assemblies.<sup>67</sup> Dr. Robert

<sup>66</sup> For an extended biography of Judge Smyth, see *History of Linn County, Iowa* (1878); *Portrait and Biographical Album of Linn County, Iowa*; and Gue's *History of Iowa*, Vol. IV, p. 248. Judge Smyth's name is also to be found spelled Smythe and Smith.

"JUDGE SMYTH, of Linn county, has prepared the Criminal Code, with the most of the provisions of which Mr. Barker agrees, but dissents as to one or two principles which Messrs. Smyth and Darwin approve. The Judge is a fine lawyer, fine talker, and fine fellow generally—very sociable with his friends, but rather distant to those with whom he has no acquaintance. His *physique* is unexceptionable—tall, rather slenderly but compactly built, with a fine head, he is such a man as the ladies like to look upon frequently. But I suspect they don't get the chance. He is a hard student, but during hours of relaxation talks much with his friends, with whom he is immensely popular."—"Linkensale" in *The Burlington Weekly Hawk-Eye*, Saturday, March 17, 1860.

<sup>67</sup> *Iowa Official Register*, 1911-1912, pp. 72, 145.

"Mr. BARKER (pray don't have it printed Baker) is a trump—a Democratic right bower—a gentleman of manly independence—a lawyer of fine attainments—a scholar whom now, henceforth, and all the time I shall delight to honor, never, however, forgetting to pray that he may be redeemed, regenerated, and disenthralled from the bondage of modern Democracy. He's none of your 'cussed go-it-blind Democrats', though, but as independent in politics as he is in other respects. I do not know but I respect his Democracy, after all, for it is of the old fashioned sort, not known at Washington. Mr. Barker makes friends with all who know him. They respect his abilities and his attainments and they like him hugely for his many genial and amiable qualities. If any body asks me to affirm that he is very *emphati-*

I. Thomas of Dubuque served as the clerk of the Commission and of the Revision Editor.<sup>68</sup>

THE REPORT OF THE COMMISSIONERS<sup>69</sup>

After having written the various acts as outlined above the Commissioners met and went over the reports in joint

cally good-looking, I beg to be 'excused'—upon my conscience."—"Linkensale" in *The Burlington Weekly Hawk-Eye*, Saturday, March 17, 1860.

In *The Dubuque Weekly Times*, Vol. XIV, No. 1, Wednesday, January 10, 1872, may be found an extended obituary notice of Judge William T. Barker.

<sup>68</sup> "DR. THOMAS, who, as well as Mr. Barker, is from Dubuque, is Secretary to the Commissioners, and Counsellor Pleydell, though he might have had a clerk who could drink more ale and write, never saw one who could write more *without* drinking ale. The Doctor is always at his post, and performs to all perfection the arduous duties devolving upon him. He was one of my first acquaintances here, but I trust that he will deem it no bad judgment when I say that he is a man who wears well, and whom, the better you know, the more you like. The Doctor is exceedingly popular, and is a great favorite with the fair sex, especially if they be 'vidders.' Old Toney Weller's doctrine has no response in his heart—nor in mine."—"Linkensale" in *The Burlington Weekly Hawk-Eye*, Saturday, March 17, 1860. See also *Revision of 1860*, Preface, pp. v, vi.

<sup>69</sup> The two reports—the report containing the criminal code and the report containing the civil practice act—are very rare. The copy used by the writer was kindly loaned by Mr. A. J. Small from the State Library at Des Moines. The reports are bound together in one volume and are probably the only copies extant. The pages are ordinary octavo in size and the work gives evidence of great hurry in its preparation. On the first page of each report appears the name "Ed Wright" in bold handwriting. A card pasted on the cover states that Mr. Wright, who represented Cedar County in the House during the Sixth, Seventh, and Eighth General Assemblies, presented these valuable reports to the Historical Department at Des Moines.

As evidence that the work was done in a hasty and careless manner the following clipping and comments thereon are taken from *The Iowa Citizen* (Des Moines), Wednesday, February 8, 1860:

"We have received a copy of the report of the Code Commissioners, which has been printed for the use of the Legislature. It makes a volume of about 350 pages. We have had no opportunity of examining it as yet, and shall not venture an opinion of its merits. The printing, however, is abominable, as any one can see at a glance.—*Hawkeye*.

"Avast there, Mr. Hawkeye. We hardly expected any such slur from you. You have certainly a copy of the Code Commissioners Report that was not printed at this office; or you have got one that justifies no such censure as that embodied in the paragraph quoted above. The type in which the report was set, is not new; and shows no such clear outlines as new type

session.<sup>70</sup> The report was then presented to the General Assembly after being printed for its action thereon. An act of March 11, 1858, provided that the Secretary of State should have five hundred copies of this report printed and send a copy to each member of the legislature one month previous to the meeting of the General Assembly.<sup>71</sup> However, it seems that the report was delayed until after the opening of the Eighth General Assembly.<sup>72</sup>

The printed report consists of two parts and is a very rare book. The first part contains the report on criminal practice, the title page of which reads as follows:

does. The paper is very poor; the poorest the State has ever used. Its color is bad and its texture is little better than common news. But as the document is for temporary use only; it was not deemed necessary by the State officers,—who are trying to practice a rigid economy,—to purchase a better article. . . . Every printer knows that it is impossible to make fine work, on common newspaper.”

<sup>70</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 344. See also *The Tipton Advertiser*, Vol. VI, No. 51, Thursday, December 8, 1859.

<sup>71</sup> *The Revision of 1860*, Preface, p. iii.

<sup>72</sup> In commenting upon this delay the *Democratic Clarion* (Bloomfield), Vol. III, No. 16, Wednesday, January 25, 1860, makes the following remarks:

“There will be a great deal of business before the Legislature, the Commissioners appointed to revise the Code have not yet reported, but will do so next week; the law required the Code to be in the hands of the members elect one month before the meeting of the Legislature, but like everything else in Republican misrule, they are yet in the employ of the State at three dollars per day.”

In an editorial on Wednesday, January 25, 1860, Editor John Teesdale of *The Iowa Citizen* (Des Moines), stated: “The Report of the Code Commissioners will soon come before the Legislature; and the legal fraternity of that body, feel more deeply interested in it than in any question likely to come up. They are for giving it precedence, and some of them go so far as to censure the State Printer, because he obeyed the injunctions of law, and gave precedence to the reports of State officers and State Institutions, as they came into his hands.—Gov. Lowe, in his message expressed himself quite favorably in regard to the Report of the Code Commissioners; and the impression of the legal fraternity seems to incline the same way, so far as a knowledge of the character of the Report has extended. This would seem to augur, if it means anything, more prompt action in the Legislature than has been generally anticipated.”

See also *Daily Iowa State Register* (Des Moines), Friday, January 13, 1860.

THE CODE  
OF  
CRIMINAL PRACTICE  
OF THE  
STATE OF IOWA.

---

REPORTED BY THE CODE COMMISSIONERS TO THE  
EIGHTH GENERAL ASSEMBLY

---

PREPARED BY WILLIAM SMYTH, ONE OF THE COMMISSIONERS.

---

DES MOINES, IOWA :  
JOHN TEESDALE . . . . . STATE PRINTER  
1860.

This part of the report, however, did not meet with the unanimous approval of all the Commissioners, as W. T. Barker thought that section 356 of the report which limited the counsel for the State to one argument before the trial jury and giving the closing argument to the defendant's counsel in all cases, should not prevail.<sup>73</sup> Moreover, Mr. Barker did not approve of the chapter on appeals and he proposed a substitute, which as he declared "is mainly the existing law, revised and amended."<sup>74</sup>

Following Mr. Barker's remarks and his proposed substitute bill the majority report of the Commissioners took up the provisions from which Mr. Barker dissented and discussed them quite fully. The Commission declared that "it was the intention of the Commission, to have accompanied the Act herewith reported to the General Assembly, with a statement of the changes which it proposes to introduce into the present Criminal Practice, and the reasons which operated on the minds of the Commissioners and

<sup>73</sup> *Report on the Code of Criminal Practice*, 1860, pp. 95-97.

<sup>74</sup> *Report on the Code of Criminal Practice*, 1860, pp. 97, 98.

induced them to recommend such changes; but the already advanced period in the session, and the pressing demands of other more important matter on the State Printer, admonish us to forbear, and at once submit the Act as it is, hoping that its provisions are so intelligible, that they can be understood."<sup>75</sup>

This report on the *Code of Criminal Practice* contains much new matter not found in the *Code of 1851*, but scores of sections are taken directly from the latter work. There are one hundred and twenty pages, ninety-two of which contain the proposed act and are without notes or references of any kind.

The second part of the report embraces three hundred and forty-four pages and contains the practice act as prepared by Mr. Darwin.<sup>76</sup> The title page of this report reads:

REPORT  
OF THE  
CODE COMMISSIONERS,  
TO THE  
EIGHTH GENERAL ASSEMBLY OF THE STATE OF IOWA.

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DES MOINES, IOWA.  
JOHN TEESDALE, STATE PRINTER.  
1859.

As in the case of the criminal code, a great many sections of the *Code of 1851* have been copied verbatim and made a part of the report containing the practice act. When this report was submitted to the legislature it passed with very little amendment.<sup>77</sup> A few sections in the report, however, are not to be found in the completed work, and among such may be mentioned chapter three of the report which pro-

<sup>75</sup> *Report on the Code of Criminal Practice*, 1860, p. 93.

<sup>76</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 3.

<sup>77</sup> *Revision of 1860*, Preface, p. iii.

vides for a reporter of the Supreme Court.<sup>78</sup> Furthermore, in some instances chapters in the completed work have their order different than those in the report, or contain additional matter. On the other hand some entire chapters in the report are taken bodily from the *Code of 1851* and are not changed in the least.<sup>79</sup>

The most interesting part of this report is to be found in the *Remarks* which follow the draft of the act.<sup>80</sup> The writer of the report states that it is written chiefly for the unprofessional reader.<sup>81</sup> He then describes the two kinds of law, adjective and substantive, and shows that the act submitted contains adjective law for the most part. This statement is followed by an article entitled *A Glance At The History Of Pleading*, which traces the development from the hard and fast forms of the old common law to the all embracing petition of the modern code pleader.<sup>82</sup> It describes the absurdities to which the old method of pleading went and then shows the steps taken by New York to remedy such evils.<sup>83</sup>

In speaking of the introduction of the reformed method of pleading into Iowa the report states :

We have said this system was introduced into Iowa in 1851. It forms the main features of the "Part Third," of our Code of that year. There were some misfortunes attendant upon its introduction here. 1st. There was no attendant report to tell us of its origin — to point out its aims, or to guide to sources of illustration.

<sup>78</sup> An act providing for a Supreme Court Reporter was approved on April 2, 1860, and took effect May 9, 1860.— *Revision of 1860*, p. 21.

<sup>79</sup> Among such chapters are the ones on Nuisance, Waste, and Trespass; Official Securities and Fines; Habeas Corpus; Changing Names; and Judgment Liens.— *Report of the Code Commissioners on the Civil Practice Act*, pp. 149, 154, 165.

<sup>80</sup> *Report of the Code Commissioners on the Civil Practice Act*, pp. 175, 176.

<sup>81</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 175.

<sup>82</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 177 et seq.

<sup>83</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 189.

It hence followed that many, of both the bar and bench, not acquainted with the latest legal thought, deemed the Code a startling innovation, and without example as a departure from precedent. 2d. That while borrowed almost entirely from New York, except some parts which we think clearly improvements, even on the New York system, yet the terms of the parent act were so far departed from as to make it difficult even to those well versed in both acts, and almost impossible for others to apply the judicial illustration which the New York act has secured, to the illumination of our own. Besides, this act had not then attained its present extended popularity, nor won its way to the general acceptance of so many States and Territories.

Then, too, in the older cities of the State, among the old men, the oldest and best lawyers, who were worked gray in the profession, there was a strong cleaving to the friendly old forms in the use of which they did, or were supposed to excel. It was hard for such men to forego a superiority, well and laboriously earned, and to be compelled to begin again by the side of the youth just immersing into the legal arena, with whose sweat, and blood, and scars, these veterans were so gallantly mantled. For these men had not learned then, what they have since — that the new system was the old system shorn only of its nonsense, and that no lesson learned in the logic or philosophy of the old, but applied as well to the new.

Then, too, were the mechanical men, who never went below the surface to find the reason of a thing, who lived and breathed, in lifeless forms. There was also the fearfully conservative man, who thought that his long buried ancestors knew much better, not knowing his surroundings, what was best for him amid such surroundings, than he possibly could — and among them all, and rather for the reasons we have given, it turned out that the Code was not welcomed as warmly as it had the right to be.<sup>84</sup>

After describing the confusion existing between law and equity procedure more fully the writer declares that “these things being thus, the Code being in many applications doubtful, and in some having clearly failed to secure its

<sup>84</sup> *Report of the Code Commissioners on the Civil Practice Act*, pp. 190, 191.

The Commissioner criticises the case of *Claussen v. Lafranze*, 4 Greene 224, for stating that “chancery was not included in the reform of the Code”.

purpose, the General Assembly imposed upon us, the duty, among other things, of making a code of civil practice."<sup>85</sup>

A vast amount of material appears to have been gone over by the Commission, for it states that in its investigations "all the reports made by former commissioners, engaged in the same duty, have been consulted. The codes of all the States we have before mentioned, have been before us, as well as all the reported decisions on the same — the English practice Acts of 1852, and 1854, and the last expressions of English reform in Chancery — the codes of Louisiana and France, which by the way, in the inception of this reform movement, contributed much to the system, as well as all the works on the new practice in the States and in England, and the latest English works on evidence. Distinguished legal men have been also by the writer hereof, consulted by letter, as to the practical working among them of the main features introduced into this act, and the experience thus collected will be presented in its proper place. . . . We cannot consent to return again to the dead mumblements of the past, and we know that neither the people, nor the bar, nor the bench, would allow it."<sup>86</sup> Indeed, it seems that Mr. Darwin had bought a number of books at his own expense, and had borrowed others, the State Law Library at that time not being as well equipped as it is to-day.<sup>87</sup>

There are four "central ideas" to be found in the new act proposed. They were "uniformity in the *pleadings* of law and equity, with a possible uniformity throughout, but a right of dissimilarity in the mode of proof, trial, and ap-

<sup>85</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 195.

<sup>86</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 195.

<sup>87</sup> For reports concerning the condition of the State Library, see *Senate Journal*, 1858, pp. 234-236. In the *Daily Iowa State Register* (Des Moines), Saturday, March 10, 1860, Mr. Darwin states that he collected at his own expense a large number of reference works.

peal''; verification of pleadings; early arrest of pleadings; and the allowing of a litigant party to make himself a witness.<sup>88</sup> Each feature is elaborately discussed and the opinions of a large number of eminent jurists are printed in commendation of the methods proposed.<sup>89</sup> In concluding his argument in favor of uniformity of procedure Mr. Darwin states:

Thought, in every other department of science, while it borrows from, refuses to bow in servile submission to the past; and in law only, and that in but a State or two, is bound down and gagged, and sitting with brow unlit by the truth and glory of the coming time. Let not our own young State in everything else so eminent, and bounding on like a young giant refreshed with wine, to the goal of her great destiny, be longer crippled by this load of effete nonsense, not imposed by, but accepted, from the dead centuries.<sup>90</sup>

Mr. Darwin further wrote that "it is fair to Mr. Barker, to say that, to that portion of this argument, going beyond what is needed to sustain *our act*, he does not stand committed."<sup>91</sup>

Strong arguments are also given on the other features of the proposed act, namely: verification of the pleadings, early arrest of pleadings, and allowing a litigant party to make himself a witness.<sup>92</sup> These, with the addition of uniformity in procedure, were declared to be the only great changes from the existing law. The Commissioners, however, stated that "considerable change has been made in phraseology only to secure better the *intention*."<sup>93</sup>

<sup>88</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 196.

<sup>89</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 292.

Mr. Darwin states that over six hundred letters were written to Iowa lawyers, asking for suggestions on the proposed act.

<sup>90</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 236.

<sup>91</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 237.

<sup>92</sup> *Report of the Code Commissioners on the Civil Practice Act*, pp. 237, 258, 260.

<sup>93</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 291.

The report is followed by *Remarks on Particular Sections*, which in many instances are very radical in tone.<sup>94</sup> Commissioner Darwin makes a caustic criticism of the opponents to codification<sup>95</sup> in speaking of section 18 which reads, "The rule of the common law that statutes in derogation thereof are to be strictly construed, has no application to this Code. Its provisions and all proceedings under it, shall be liberally construed with a view to promote its object and assist the parties in obtaining justice."<sup>96</sup> On section 458 of the report which reads, "The Court may restrict the time of any attorney in any argument to itself, but shall not do so in any case before a jury,"<sup>97</sup> Mr. Darwin was also very bitter in his criticism.<sup>98</sup> It was termed by him a "gag law", and he further declared that "any exercise of it is dangerous."<sup>99</sup> In closing his argument against this section, which was placed in the proposed act against his wishes, Mr. Darwin declared that the county courthouse is the school house of the masses, and that "the lawyer is the priest who more than the judge announces those lessons. His voice, even if it be, as sometimes, raised to misapply them, trumpets out these grand truths which form the granite ribs on which rests our social liberty and life. . . . He seizes on wrong and crime and lashes them naked into ignominy, banishment, or dungeons. . . . You have broken the chief altar, and silenced and ejected the priest, and your temple of justice, has become a mercenary shamle where profit and loss is selfishly bartered, while shivering *virtue* cries aloud, unheeded, in the streets."<sup>100</sup>

<sup>94</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 293.

<sup>95</sup> *Report of the Code Commissioners on the Civil Practice Act*, pp. 293, 294.

<sup>96</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 7.

<sup>97</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 65.

<sup>98</sup> *Report of the Code Commissioners on the Civil Practice Act*, pp. 320-324.

<sup>99</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 321.

<sup>100</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 324.

In concluding this report Mr. Darwin acknowledged aid from Hon. Dudley Field of New York, William Price of Maryland, and W. R. Wells of Missouri, who were or had been engaged in similar work in their respective Commonwealths.<sup>101</sup> He also stated that the report was not written until the act had been approved by the whole Commission, only four weeks before the beginning of the session, when the report was sent at once to the printer.<sup>102</sup> As a consequence, the writer declared, "the report was then rapidly dashed off in the fear that it might be wanted before ready. It thus also results that a thousand pages of study and notes on this subject, which should have been condensed into less bulk than this report, in its present shape, cannot be appropriated, as was designed, to the illustration hereof."<sup>103</sup>

In addition to the two reports above described there was yet a third report presented, together with a draft for a "Revision of the Laws". A portion of this report is to be found in the preface to the *Revision of 1860* and is not nearly as extensive as the other two.<sup>104</sup> From it may be learned the method adopted by the Commissioners as stated in the following paragraph:

This revision which we offer you, does not need to be enacted, as it is the law as it exists already. We add nothing to the law — subtract nothing therefrom — make no change of word or phrase — merely of the arrangement of the existing law. We simply put into one chapter what we think belongs to one chapter. We indicate what act and section thereof, each section comes from — the book where it was formerly found, and when it was passed and took effect.<sup>105</sup>

<sup>101</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 344.

<sup>102</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 344.

<sup>103</sup> *Report of the Code Commissioners on the Civil Practice Act*, p. 344.

<sup>104</sup> *Revision of 1860*, Preface, pp. iv, v.

<sup>105</sup> *Revision of 1860*, Preface, p. v.

Besides stating the method pursued by the Commissioners, this report presents an excellent summary of the progress of codification in the United States up to 1860.<sup>106</sup> It states the decision of the Commission to follow the arrangement as laid down in the *Code of 1851* since "that method is so good, and so well understood, that a change would neither be sustained by reason, nor by the approval of the people. The method or classification of the Code has very illustrious prototypes, and among the States there are several Codes which use the same method, as for example, those of Virginia, Alabama, Delaware, etc."<sup>107</sup>

These three reports did not bring forth the criticism that the *Report on the Code of 1851* incurred, and they were substantially enacted as presented.<sup>108</sup>

#### LEGISLATIVE ACTION UPON THE REPORT

The Eighth General Assembly of the State of Iowa convened at Des Moines on January 9th, 1860.<sup>109</sup> Probably the most important work of the session was the consideration of the reports of the Code Commissioners, although other very important measures were considered.<sup>110</sup>

<sup>106</sup> For instructive historical articles on the progress of codification in the United States see *A Revival of Codification*, by Francis M. Burdick in 10 *Columbia Law Review* 118, February, 1910; and *Codification in The Law Bulletin*, State University of Iowa, No. 22, p. 16.

<sup>107</sup> *Revision of 1860*, Preface, p. v.

<sup>108</sup> *Revision of 1860*, Preface, p. iii. See also Withrow and Stiles' *Digest of the Decisions of the Supreme Court of Iowa*, Preface, p. xviii.

In speaking of the action of the Senate upon the reports, a correspondent to *The Washington Press* (Washington, Iowa), Wednesday, March 14, 1860, writes:

"The amendments are mostly of a mere correctionary character. In its main features the Code remains untouched. The most important amendment is in relation to verification of Pleas. On this the committee (Judiciary) were divided and agreed to a compromise. The compromise is, that either party may verify any pleading he may choose, and then all subsequent pleadings by either party shall be verified."

<sup>109</sup> *House Journal*, 1860, p. 1.

<sup>110</sup> "The most important work of the Eighth General Assembly was the con-

In his biennial message Governor Lowe reported that:

The commissioners appointed to prepare a code of civil and criminal procedure, and to revise and codify the laws of the State, will spread before you the work of their hands, which should engage your attention in the early session, whilst the several committees are preparing other measures for your consideration.

The very cursory reading which I have been able to give to a portion of the civil practice act, made a favorable impression upon my mind, and it is to be hoped, upon a full and careful examination by you, that it will be found quite acceptable, and that you will not feel it necessary to make many changes in the same.<sup>111</sup>

As the reports of the Commissioners were not ready at the time of the convening of the legislature, their consideration was of necessity postponed until near the middle of the session. On the last day of January, Mr. Nathaniel B. Baker in the House of Representatives "moved to take up the Code of Civil Practice, in committee of the whole . . . and each day thereafter till it is disposed of."<sup>112</sup> This motion was amended, however, upon the motion of Thomas W. Claggett and it was referred to the Committee on the Judiciary.<sup>113</sup> The following day Mr. J. H. Williams introduced a concurrent resolution instructing the Secretary of State "to deliver to the Code Commissioners fifty copies of their report on civil practice."<sup>114</sup> This action

sideration of the report of a commission selected by the previous Legislature to revise and codify the laws of the State. Their elaborate work was carefully reviewed, and, with some amendments, enacted and published as the 'Revision of 1860.' W. H. F. Gurley, of Scott County, chairman of the committee of ways and means, in the House, framed new revenue laws which with few changes, remained on the statute books for more than a quarter of a century, working a great reform in the collection of taxes."—Gue's *History of Iowa*, Vol. II, p. 32.

<sup>111</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 179.

<sup>112</sup> *House Journal*, 1860, p. 175.

<sup>113</sup> *House Journal*, 1860, p. 175.

<sup>114</sup> *House Journal*, 1860, p. 181.

was approved by the Senate on the 11th of February.<sup>115</sup> On the same day, Mr. Rush Clark of Johnson County presented a resolution calling on the Code Commissioners "to transmit a copy of their report on criminal practice, to each Supreme and District Judge, and each District Attorney of the State, as early as practicable."<sup>116</sup>

On the 17th of February the Judiciary Committee presented a partial report on the proposed Civil Practice Act and recommended less than a score of changes, most of them being of trivial importance, as for instance, the transposition of words or corrections in grammar.<sup>117</sup> A week later a further report was made, the amendments, however, being of the same nature as in the previous report.<sup>118</sup>

During the last week in February, 1860, Mr. Thomas W. Claggett offered a resolution to postpone the consideration of the Code until the following session of the General Assembly, but it was laid on the table.<sup>119</sup> Mr. Rush Clark of Johnson also presented a petition from seventeen citizens of the Eighth Judicial District against the passage of the new Code.<sup>120</sup> On March 6th, however, the point was reached where Mr. Henry C. Caldwell, Chairman of the Judiciary Committee, offered the following resolution:

That senate file number 126, an act to establish a Code of Civil Practice, be made the special order for Thursday, 8th inst., at 2 o'clock, P. M., and that it remain the special order for each afternoon thereafter, until the same is disposed of.<sup>121</sup>

This resolution was adopted as was also one tendering

<sup>115</sup> *House Journal*, 1860, pp. 227, 228.

<sup>116</sup> *House Journal*, 1860, p. 231.

<sup>117</sup> *House Journal*, 1860, p. 254.

<sup>118</sup> *House Journal*, 1860, pp. 288-290. A third report from the Committee on the Judiciary can be found in the *House Journal*, 1860, pp. 384-387.

<sup>119</sup> *House Journal*, 1860, p. 302.

<sup>120</sup> *House Journal*, 1860, p. 287.

<sup>121</sup> *House Journal*, 1860, p. 372.

the Commissioners the privilege of seats on the floor and the permission to speak on the act under discussion.<sup>122</sup> On Tuesday, the 13th of March, the Committee of the Whole House reported back the Senate bill "with sundry amendments, and recommended its passage".<sup>123</sup> The following day the bill passed the House by the vote of forty-nine to thirty-two.<sup>124</sup>

Five days later the House was informed that the Senate had passed the act for a Criminal Code whereupon Mr. James H. Williams offered the following resolution which was adopted:

That senate file number 153 be made the special order for tomorrow afternoon and every afternoon thereafter until the same be disposed of; and that the commissioners be and are hereby invited to occupy a place on this floor, and participate in the discussion of the same.<sup>125</sup>

When this act was voted upon on the 20th of March it passed the House by the vote of forty-four to thirty-two.<sup>126</sup>

Having passed both acts it became important that provision should be made for publication and for the payment of the Commissioners. On the 28th of March Mr. Alvah H. Bereman of Mt. Pleasant introduced a bill which called "for the publication of the Revised Statutes of 1860".<sup>127</sup> Mr. Henry C. Caldwell proposed a substitute for this bill which was adopted.<sup>128</sup> Amendments were made to this substitute bill in the Senate, but they were all concurred in by the House.<sup>129</sup>

<sup>122</sup> *House Journal*, 1860, p. 372.

<sup>123</sup> *House Journal*, 1860, p. 421.

<sup>124</sup> *House Journal*, 1860, pp. 426-430.

<sup>125</sup> *House Journal*, 1860, p. 454.

<sup>126</sup> *House Journal*, 1860, pp. 464, 465.

<sup>127</sup> *House Journal*, 1860, p. 560.

<sup>128</sup> *House Journal*, 1860, pp. 617, 618.

<sup>129</sup> *House Journal*, 1860, p. 652.

In many respects the action in the Senate was more important than the action of the House, since both bills providing for the adoption of the reports originated in the upper house. On January 31, 1860, Senator M. L. McPherson moved that the report of the Code Commission be taken up and referred to the Judiciary Committee, which was ordered.<sup>130</sup> A week later Mr. David Hammer offered a resolution in which the Judiciary Committee was requested to report "immediately, on the report of the Code Commissioners", and be discharged from any further consideration thereof.<sup>131</sup> This resolution was laid on the table and appears to have been of no further significance.<sup>132</sup>

On February 27, 1860, the Senate was ready to consider the report of the Commissioners and Mr. John W. Rankin of Lee County offered the following resolution which was adopted:

*Resolved*, That the Code Commissioners be invited to take a seat on the Senate floor, while the Senate is considering the Code and amendments in Committee of the Whole.<sup>133</sup>

At two o'clock the Senate resolved itself into a Committee of the Whole Senate for the consideration of the report.<sup>134</sup> Two days later on the 29th of February the Judiciary Committee reported back Senate File No. 126, which provided for the establishment of a Code of Civil Practice, with sundry amendments, and the majority recommended that the bill be passed.<sup>135</sup> Furthermore, the Committee of the Whole Senate, on the same afternoon, recommended the passage of the act.<sup>136</sup>

<sup>130</sup> *Senate Journal*, 1860, p. 155.

<sup>131</sup> *Senate Journal*, 1860, p. 209.

<sup>132</sup> *Senate Journal*, 1860, p. 209.

<sup>133</sup> *Senate Journal*, 1860, p. 331.

<sup>134</sup> *Senate Journal*, 1860, p. 333.

<sup>135</sup> *Senate Journal*, 1860, p. 346.

<sup>136</sup> *Senate Journal*, 1860, p. 349.

When the bill came up for consideration a large number of the amendments made by the last named committee were concurred in.<sup>137</sup> Several amendments proposed by individuals, however, did not meet the same fate, but were lost.<sup>138</sup> After much discussion concerning these amendments the bill was put to a final vote and adopted by the vote of twenty-eight to twelve.<sup>139</sup>

On the 10th of March the bill for an act to establish a Code of Criminal Practice was reported back to the Senate from the Judiciary Committee by Mr. John W. Rankin.<sup>140</sup> After having been considered by the Committee of the Whole Senate the bill was passed by the vote of twenty-three to eighteen on March 16, 1860.<sup>141</sup>

The next question concerning the Code to engage the attention of the Senate was the compensation of the Commissioners. On March 21st Mr. William F. Coolbaugh of Burlington introduced a bill to pay the Commissioners.<sup>142</sup> After being referred to the Committee on Ways and Means, and having been by them amended, it was passed by the Senate on the 27th of March.<sup>143</sup>

The question of printing and distributing the *Revision of 1860* appears to be a complicated question in the Senate, and no less than four different bills were introduced.<sup>144</sup> Mr. Alvin Saunders presented a bill which provided for "the revision of the laws of this Session into the revision presented by the Commissioners, and also for superintend-

<sup>137</sup> *Senate Journal*, 1860, pp. 360-366.

<sup>138</sup> *Senate Journal*, 1860, pp. 366-370.

<sup>139</sup> *Senate Journal*, 1860, pp. 378-383.

<sup>140</sup> *Senate Journal*, 1860, p. 422.

<sup>141</sup> *Senate Journal*, 1860, p. 485.

<sup>142</sup> *Senate Journal*, 1860, p. 533.

<sup>143</sup> *Senate Journal*, 1860, pp. 620-622.

<sup>144</sup> These bills were House Files Nos. 369 and 395, the substitute for House File No. 369, and Senate File No. 222.

ing the publication, indexing and distribution of the same."<sup>145</sup> This bill passed the Senate by a vote of twenty-seven to four and went through the House without amendment.<sup>146</sup>

When the House bill which provided for the printing of the Code reached the Senate, it was amended and passed. The House concurred in the Senate's amendments and the bill became a law.<sup>147</sup> A joint resolution introduced in the House calling for the distribution of the Code and laws to members of the legislature appears to have been lost.<sup>148</sup>

The last bill or act concerning the *Revised Statutes of 1860* took the form of a concurrent resolution and it received the sanction of both houses. This resolution was fathered by Mr. A. O. Patterson of Muscatine County and read as follows:

*Resolved*, By the Senate, the House concurring, That it is hereby made the duty of the Secretary of State, to furnish one copy of the "Revised Statutes" of Iowa to each member of the General Assembly, as soon as they are published; also, purchase and deliver one copy of the Iowa Digest (by Dillon) of the Supreme Court of this State, to each of said members.<sup>149</sup>

For their labor in preparing the reports the Commissioners received the sum of six thousand seven hundred and fifty dollars. Of this amount Mr. Darwin received three thousand dollars, Mr. Smyth and Mr. Barker each received the sum of fifteen hundred dollars, while seven hundred and fifty dollars were allotted to the clerk of the Commission, Dr. R. I. Thomas.<sup>150</sup>

<sup>145</sup> *Senate Journal*, 1860, p. 640.

<sup>146</sup> *Senate Journal*, 1860, pp. 726, 727, 735.

<sup>147</sup> *Senate Journal*, 1860, p. 740.

<sup>148</sup> *Senate Journal*, 1860, p. 703.

<sup>149</sup> *Senate Journal*, 1860, pp. 709, 710, 714.

<sup>150</sup> *Laws of Iowa*, 1860, p. 52.

## THE PRINTING OF THE REVISION OF 1860

The law which provided for the printing of the *Revision of 1860* was approved on April 3, 1860.<sup>151</sup> By this act the Governor, Secretary of State, Auditor of State, Treasurer of State, and Charles Ben Darwin were appointed a commission to contract for the printing of the work which was to be known as the "Revised Statutes, of Iowa". The law further provided that this volume should "contain all laws of the State of a general nature in force, or provided for by the present General Assembly, to be in force during its present session and subsequent to its adjournment". One of the provisions prohibited the letting of the contract to any "person or persons who are not bona fide residents of the State of Iowa".<sup>152</sup>

Section two of this act refers to a matter which gave rise to some newspaper comment at the time. It reads:

The Commissioners hereby appointed shall contract for the printing at the end of each chapter of said volume a synopsis, prepared by Charles Ben Darwin, of all prior laws on the same subject, beginning with those of the State of Michigan, which are in force in the State of Iowa, and continuing down to the present time, stating when each took effect, and when it was repealed, and referring to the book and pages where the original acts are found; also, giving notes and references under each chapter, to all decisions made by the Supreme Court of this State, on the same or any prior law of the same kind; also giving notes and references to the decisions of the highest Courts of those States, from whose laws sections of the Code of civil practice have been taken; also to contain an index to the contents of the volume. And the Contractor for such printing shall furnish at his own expense the said synopsis notes and references; *Provided*, said notes and references shall not add more than twenty-five cents to the cost of each volume of said book, exclusive of material and printing.<sup>153</sup>

<sup>151</sup> *Laws of Iowa*, 1860, p. 119.

<sup>152</sup> *Laws of Iowa*, 1860, p. 120.

<sup>153</sup> *Laws of Iowa*, 1860, Section 2, p. 120.

This provision caused considerable criticism. It appears that prior to his appointment to the Code Commission, Mr. Darwin had prepared a synopsis of the Iowa laws and had made arrangements with Mr. Corse of Burlington for its publication. When he was appointed to the Code Commission, however, this project was dropped by Mr. Darwin. Corse and Canfield, a publishing firm, approached Mr. Darwin during the latter part of the session of the Eighth General Assembly and secured this material, consisting of the synopsis of laws and annotations to code sections, on "certain contingencies". Desiring to reimburse himself for the outlay in purchasing books and preparing this material, Mr. Darwin accepted the offer of Corse and Canfield.<sup>154</sup>

Certain printers and publishers in the State thought that such an act was an attempt on the part of Darwin, and Corse and Canfield, to compel the legislature to purchase the notes and award the contract for printing the Code to Corse and Canfield, and some very caustic comments were published. Editor John Teesdale of the *Daily Iowa State Register* declared:

It is rumored that Mr. Darwin has disposed of his work to Messrs. Corse and Canfield, and that that fact is now pressed as an irresistible reason for giving the publication of the Code to those gentlemen. This looks very much like an effort to force the Legislature to terms — to induce it to an act of great injustice to an officer of whom it requires the establishment of an office at the Capitol, and a preparation to do his work. . . . The scheme they have devised, may be a very shrewd one; but they will find that the Legislature is not to be forced into giving them a piece of work, upon which they have not the shadow of a claim; nor yet into the payment of an exorbitant price for matter that can be dispensed with, without detracting from the value of the new code.<sup>155</sup>

<sup>154</sup> The *Daily Iowa State Register* (Des Moines), Vol. I, No. 54, Saturday, March 10, 1860.

<sup>155</sup> The *Daily Iowa State Register* (Des Moines), Vol. I, No. 52, Thursday, March 8, 1860.

A correspondent to the *Burlington Hawk-Eye* wrote from Des Moines as follows:

I notice some lobbying for the printing of the new Code. Several propositions have already been made. But it seems to me that any attempt of this kind, on the part of the State to speculate out of the copy right of her laws, will prove alike unprofitable to the State and disreputable to her honor.

. . . . The idea that Mr. Darwin desires some man elsewhere to print it, is too frivolous for consideration, for in this matter he occupies no other position than a citizen, and the work of digestry of the decisions of the courts on our Statutes can be performed by several other lawyers, nearly as well, *perhaps*, as by Mr. Darwin.<sup>156</sup>

The act provided that the cost of the volume should not exceed \$2.50 per copy and that the work should be completed within six months from the time the superintendent of the publication should notify the contractor of his readiness to superintend the work.<sup>157</sup>

Another act concerning the publication of the *Revision of 1860* was approved on April 2, 1860. By this act C. Ben Darwin was made the Superintendent of Revision and was instructed "to incorporate, by proper revision, into the revision prepared by him, . . . all the laws of a general nature passed at this Session, to the end that the volume . . . shall contain, when published, all the laws of a general nature which shall be of force in this State, when the laws of this Session have taken effect."<sup>158</sup>

The act also called for the publication of 10,000 copies of the *Revision of 1860* and 3000 copies of the session laws which were not to be included in the *Revision*. The arrangement prescribed was the same as in the *Code of 1851*.

<sup>156</sup> *The Burlington Weekly Hawk-Eye*, Saturday, March 10, 1860. Another article of this nature can be found in *The Iowa State Register* (Des Moines), Vol. V, No. 5, Wednesday, March 14, 1860, entitled *Patriotism and Perseverance Under Difficulties*.

<sup>157</sup> *Laws of Iowa*, 1860, p. 121.

<sup>158</sup> *Laws of Iowa*, 1860, pp. 122-125.

and the matter included in the appendix of the *Code of 1851* was also ordered to be published. For this editorial work, Mr. Darwin was to receive \$1000 and he was also allowed a clerk at \$3.00 per day. The Secretary of State received \$1500 for the purpose of distributing the completed work.

The five commissioners appointed to superintend the printing advertised for bids and the successful bidder was John Teesdale, the State Printer and editor of *The Iowa Citizen* and the *Daily Iowa State Register* of Des Moines.<sup>159</sup> The bids were opened on the 23rd of April, 1860, and the contract awarded to the lowest bidder.<sup>160</sup> There were eleven bidders for the contract, but the proposition of Mr. Teesdale was accepted, the contract price being \$1.95 per volume.<sup>161</sup>

<sup>159</sup> This advertisement is to be found in *The Iowa State Register* (Des Moines), Vol. V, No. 9, Wednesday, April 11, 1860.

<sup>160</sup> *The Iowa State Register* (Des Moines), Vol. V, No. 11, Wednesday, April 25, 1860. In an article in the same paper on April 11, 1860, entitled *The Legislature — Its Doings, &c.*, Mr. Teesdale has the following to say in regard to the action of the legislature in allowing the work to be contracted for:

“The Code takes effect on the 1st of September. Six months are allowed to the printer and binder for its publication. Contrary to all precedent and in manifest violation of the law creating the office of State Printer,—which secures to him all the State Printing, and requires him to provide for the execution of the same—the Census Board are authorized to contract for the Printing of the Code, and to let it out to other parties than the State Printer and Binder, if they see proper so to do. We cannot anticipate their action, but we know that they will not willingly be a party to the perpetration of a wrong. . . . It will take the contractor some time to prepare for his work, and the revisor will require time to prepare his matter, so that it will be next to impossible to complete the publication of the Code in less than 8 months from the present time.—The failure of the Legislature to provide for the publication of the general laws, will cause much vexation and denunciation. The laws take effect in July, but they will not be published in book form, until several months afterwards. We mention these facts to avoid misapprehension, and that it may be understood the fault of such delay is not ours. The only laws we are authorized to print, are those not to be embraced in the Code. They will be out in due time.”

<sup>161</sup> *The Iowa State Register* (Des Moines), Vol. V, No. 11, Wednesday, April 25, 1860.

In order to perform the work within the time prescribed by the law, it was necessary to send the work out of the State, and the printing and binding was done by Case, Lockwood & Co., of Hartford, Connecticut, under the direct supervision of Mr. C. Ben Darwin.<sup>162</sup> The work was completed by the middle of September, 1860, and in speaking of the completion of the volume Editor Teesdale declared:

It affords us pleasure to state that the printing of the Code has been completed, and Mr. Darwin arrived in this city with the first bound copy, several days since. The delivery of the books will commence as fast as they can be issued from the bindery at Hartford; which will be at the rate of 300 copies per day. The work is well done, and the book will be an ornament to the law libraries of the State. We have thus not only fulfilled our contract with the State, but secured a completion of the work nearly three months in advance of the requisitions of the law. A desire to ensure this result, and thus meet what seemed to be an imperious public necessity, is our sole reason for sending the work out of the State.<sup>163</sup>

Very little is to be found in the newspapers concerning the *Revision of 1860* after its appearance. Grave political issues were before the people and local issues and affairs were of minor interest.<sup>164</sup>

<sup>162</sup> *The Iowa State Register* (Des Moines), Vol. V, No. 18, Wednesday, June 13, 1860. "Mr. Darwin is at Hartford, Conn., superintending the printing of the Code, at the extensive book printing establishment of Case, Lockwood & Co. He prepared all his matter before leaving this city, so that there will be no delay in the execution of the work."

<sup>163</sup> *The Iowa State Register* (Des Moines), Vol. V, No. 32, Wednesday, September 19, 1860.

<sup>164</sup> The following newspaper articles bear on the Code and the reports of the Commissioners: *The New Code* in *The Clinton Herald*, Saturday, February 25, and Saturday, March 10, 1860; *Capital Correspondence* of March 3, 1860, in *The Cedar Valley Times* (Cedar Rapids), Thursday, March 15, 1860; *Letters from the Capital* in *The Vinton Eagle*, Tuesday, February 21, and Tuesday, March 13, 1860; *The Revised Laws* in *The Washington Press* (Washington, Iowa), Vol. IV, No. 48, Wednesday, April 18, 1860. In *The Iowa Weekly Citizen* (Des Moines), are the following articles: *Revision of the Laws*, Wednesday, February 3, 1858; *Revision of the Code*, Wednesday, February 10, and Wednesday, February 17, 1858. *The Burlington Weekly Hawk-Eye* contains:

## 350 IOWA JOURNAL OF HISTORY AND POLITICS

### CHARACTER AND CONTENTS OF THE REVISION OF 1860<sup>165</sup>

The *Revision of 1860* is a quarto sized volume of 1160 pages and is divided into 247 chapters of 5198 sections. The contents are divided into four parts which correspond to the classification in the *Code of 1851*. The title page of this Code reads as follows:

REVISION OF 1860,  
CONTAINING ALL THE  
STATUTES OF A GENERAL NATURE  
OF THE  
STATE OF IOWA,  
WHICH ARE NOW IN FORCE, OR TO BE IN FORCE, AS THE  
RESULT OF THE LEGISLATION  
OF THE  
EIGHTH GENERAL ASSEMBLY.

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PUBLISHED BY VIRTUE OF CHAPTERS 158 AND 160, OF THE ACTS OF THE EIGHTH  
GENERAL ASSEMBLY OF THE STATE OF IOWA.

---

DES MOINES, IOWA:  
JOHN TEESDALE, STATE PRINTER.  
1860.

Most of the new features embodied in the *Revision of 1860* are to be found in parts three and four, since parts one

*The Proposed Code of Civil Practice*, Saturday, February 11, 1860; *The New Code of Civil Practice and Notes*, Saturday, March 17, 1860; *Capital Correspondence*, on Saturdays, February 18, March 3, 10, 17, 24, and April 7, 1860; and an editorial on the printing of the Code on Saturday, March 17, 1860. In *The Daily Iowa State Register*, Des Moines, are the following articles: *The Legislature*, Monday, January 23, 1860; *Progress of Legislation*, Thursday, February 16, 1860; *Verification*, Wednesday, February 22, 1860; *Legislative*, Saturday, February 25, 1860; *What the New Code does About Equity Practice*, Saturday, February 25, 1860; *A Word on the Progress of Legal Reform*, Monday, February 27, 1860; *The Printing of the Code*, Thursday, March 8, 1860; *Patriotism and Perseverance Under Difficulties*, Monday, March 12, 1860.

<sup>165</sup> The copy of the *Revision of 1860* used by the writer in the preparation of this article was presented to the State Historical Society of Iowa by Mrs.

and two were simply revised. But even in parts one and two many new statutes are to be found which were lacking in the *Code of 1851*. The Register of the State Lands<sup>166</sup> and the Supreme Court Reporter are to be found as new State officials,<sup>167</sup> and the office of Attorney General appears in the *Revision of 1860* for the first time in a code of Iowa law.<sup>168</sup> The same is true of the office of State Binder.<sup>169</sup> Among the other new features to be found in part one are the provisions for the Geological Survey of the State<sup>170</sup> and "an act requiring complete Reports from Officers in charge of State Buildings and State Institutions."<sup>171</sup>

It must not be understood that all of the above provisions appear for the first time in the *Revision of 1860*. All changes in parts one and two were passed as acts of the legislature and were printed with the laws of the various sessions, but they appear for the first time in a code in the *Revision of 1860*.

Great changes are to be found in the chapter on "County Judge", the most important of which, perhaps, is the act creating a Board of Supervisors.<sup>172</sup> Likewise, in the chapter on "Swamp Lands" may be discovered many laws passed at various times upon this important subject.<sup>173</sup> Chapter 45 relates to "Revenue" and appears for the first time in the *Revision of 1860*.<sup>174</sup> This act consists of one

Samuel J. Kirkwood and was from the library of the late War Governor. Samuel J. Kirkwood was the chief executive of Iowa when the *Revision of 1860* was prepared.

<sup>166</sup> *Revision of 1860*, Chap. 9, pp. 18-21.

<sup>167</sup> *Revision of 1860*, Chap. 10, pp. 21-23.

<sup>168</sup> *Revision of 1860*, Chap. 11, pp. 23, 24.

<sup>169</sup> *Revision of 1860*, Chap. 13, pp. 28-30.

<sup>170</sup> *Revision of 1860*, Chap. 14, pp. 30, 31.

<sup>171</sup> *Revision of 1860*, Chap. 17, p. 35.

<sup>172</sup> *Revision of 1860*, Sections 302-326, pp. 48-53.

<sup>173</sup> *Revision of 1860*, Chap. 47, pp. 147-160.

<sup>174</sup> *Revision of 1860*, Chap. 45, pp. 108-132.

hundred and eight sections and was considered to be one of the most important acts of the Eighth General Assembly.<sup>175</sup> Another important financial measure was the act passed in 1858 creating the State Bank of Iowa.<sup>176</sup> A State Agricultural College and Farm was also established by an act passed in 1858.<sup>177</sup> In short, the great progress along all lines in the State during the ten previous years reflects itself in the *Revision of 1860*.<sup>178</sup>

Under the title "Of Education" may be found certain of the laws of the Board of Education.<sup>179</sup> The school laws occupy a large section of the *Revision of 1860* and were one of the important issues at this time.<sup>180</sup>

Very little change is to be found in part two, which contains substantive law, since such rights remain to a certain degree fixed, requiring less change than other laws. The revision of this part was evidently an easy task, and an examination reveals comparatively few changes.

Part three embraces the "Code of Civil Practice At Law and In Equity" and contains much material not found in the *Code of 1851*, though it is based primarily on the earlier work.<sup>181</sup> This part is not divided into titles as was part three of the *Code of 1851*,<sup>182</sup> but is placed in chapters, the first of which was copied from the laws of Kentucky and

<sup>175</sup> Gue's *History of Iowa*, Vol. II, p. 32.

<sup>176</sup> *Revision of 1860*, Chap. 66, pp. 281-297.

<sup>177</sup> *Revision of 1860*, pp. 300-304.

<sup>178</sup> This is shown by the acts providing for insurance companies, State Bank, etc.

<sup>179</sup> *Revision of 1860*, Title XIV, pp. 342-378. The acts of the Board of Education had the effect of law.—*Constitution of 1857*, Art. IX, Sec. 7. See *Revision of 1860*, p. 1001. The enacting clause of such laws was "Be it enacted by the Board of Education of the State of Iowa."

<sup>180</sup> See note 12 above.

<sup>181</sup> *Revision of 1860*, p. 439.

<sup>182</sup> *Revision of 1860*, note, p. 439.

contains the "preliminary provisions".<sup>183</sup> Section 2620 provides for uniformity of procedure in both law and equity and is one of the distinctive features of this Code.<sup>184</sup> The liberality allowed in pleadings is clearly expressed in the following section:

The rule of the common law that statutes in derogation thereof are to be strictly construed, has no application to this code. The provisions and all proceedings under it, shall be liberally construed with a view to promote its object and assist the parties in obtaining justice.<sup>185</sup>

Another new feature of part three is section 2675, which makes the following provision:

In 1860, and every sixth year thereafter, there shall be appointed by the governor, by and with the consent of the senate, three commissioners of legal inquiry, who shall hold their office for six years, and any vacancy, by resignation or otherwise, may be filled by the governor, subject to the approval of the senate then, or next to be in session.<sup>186</sup>

The Governor placed the Code Commissioners, William Smyth, W. T. Barker, and Charles Ben Darwin, upon this Commission, but no report was ever made by these gentlemen concerning the laws of Iowa.<sup>187</sup>

<sup>183</sup> *Revision of 1860*, Chap. 108, note, p. 439.

<sup>184</sup> *Revision of 1860*, p. 450.

<sup>185</sup> *Revision of 1860*, Section 2622, p. 454.

One new section which came in for some criticism was section 3991, which reads: "The general moral character of a witness may be proved for the purposes of testing his credibility." A correspondent to *The Cedar Valley Times* (Cedar Rapids), Thursday, March 15, 1860, declared: "But this proposed reform, allowing the moral character of a witness to be proven, to test his credibility, is in advance of anything yet proposed. . . . I look on this as a pernicious provision and one that ought not to pass."

<sup>186</sup> *Revision of 1860*, Section 2675, p. 469. See also note on p. 469.

<sup>187</sup> In his first biennial message on January 8, 1866, Governor William Milo Stone speaks of the Commissioners of Legal Inquiry in the following terms:

"I recommend that you constitute the judges of the Supreme Court 'Commissioners of Legal Inquiry' in place of those contemplated by section 2675 Rev. 1860, making it their duty at the close of each regular term to report

Part four is divided into two main sections. The first is taken, with very few changes, from the *Code of 1851* and defines the various crimes, with the punishment prescribed for each. The second part is the "Code of Criminal Practice", prepared by Judge William Smyth.<sup>188</sup> The greater part of this act was entirely rewritten, but many sections from the *Code of 1851* have been kept intact.<sup>189</sup> The last chapter of the fourth part was not embraced in Judge Smyth's revision, as it concerned "The penitentiary of the State, and the government and discipline thereof."<sup>190</sup>

At the close of each chapter the compiler has placed a list of all prior laws relating to the contents of such chapter passed in the Territories of Michigan and Wisconsin, or in the Territory and State of Iowa. There also appear, in addition to the "prior laws", the decisions of the Iowa courts interpreting or referring to the chapter. The sections taken from the *Code of 1851* are enclosed in marks of parenthesis. Where the act has been revised merely, the act of the legislature has often been made a part of the chapter revised.

In parts three and four the notes to the various sections fully to the Governor, and also the General Assembly at each regular session, upon any discrepancies or imperfections in the general statutes and code of procedure. These duties should be made imperative, and compensation provided. This is not now the case, and as a consequence no report of Commissioners of Legal Inquiry has ever been submitted. The trust is one of such delicacy and responsibility, that it would be appropriate to confer it upon those who hold the highest judicial position in the State. In this way we will be gradually enabled to systematize and perfect our laws and code of practice, civil and criminal, at the same time that we raise the pay of the Supreme Bench by constitutional means to something near a proper compensatory standard."—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. III, p. 55. However, a report of this commission may be found at a later date in *Senate Journal*, 1870, p. 237.

<sup>188</sup> *Revision of 1860*, note, p. 758.

<sup>189</sup> Sections taken from the *Code of 1851* have their number in the earlier work enclosed in parentheses, as "sec. 4442(2773)".

<sup>190</sup> *Revision of 1860*, Chap. 247, pp. 855-867.

include the greater part of the reports of the Code Commissioners. This was done partly in explanation of the sections and partly because of the fact that the reports were very scarce and difficult to secure.<sup>191</sup> The Code Editor, Mr. Darwin, also included the decisions of the courts of other States upon sections which were similar to the sections in part three; and wherever necessary, he inserted references to the codes or digests of other States when sections had been taken therefrom and placed in the Iowa Code.<sup>192</sup>

In the *Appendix* there are printed the various documents found in the appendix to the *Code of 1851*, and in addition the "New Constitution of Iowa" and certain acts passed by the legislature.<sup>193</sup> A great many of these acts refer to the *Des Moines River Lands* and were passed at various sessions other than at the Eighth General Assembly.<sup>194</sup> Concerning the arrangement of the laws in the *Appendix* Mr. Darwin says: "Several laws are placed in this Appendix which would have been placed in some other order could it have been known before printing too far that there would be room for them in the book."<sup>195</sup>

#### COMMENTS ON THE REVISION OF 1860

There does not seem to have been any wide-spread criticism of the *Revision of 1860*. The work appears to have been done in great haste and the arrangement of the legislative acts may well be criticised. But the War of the Rebellion followed so closely after the appearance of the *Revision* that it was overlooked in the general turmoil.

<sup>191</sup> *Revision of 1860*, note, p. 758; also note, p. 440.

<sup>192</sup> As examples of such notes and references, see *Revision of 1860*, pp. 500, 509, 510-514.

<sup>193</sup> There is a total of twenty-five documents included in the *Appendix*.—*Revision of 1860*, Preface, p. xix, xx.

<sup>194</sup> *Revision of 1860*, pp. 889-916.

<sup>195</sup> *Revision of 1860*, note, p. 869.

When, however, the Code Commissioners of the *Code of 1873* had occasion to offer remarks they reported as follows:

To offer any criticism here upon the execution of that Revision would be foreign to our purpose, and ungracious; but we may properly remark that the chief objections to that volume are founded on the method itself, as detailed in this quotation. [*Revision of 1860*, Preface, p. v.] Without verbal changes, and many of them, it is impossible to bring a large number of acts, passed at different times, with no unity or plan of purpose, into a harmonious system; or to escape the necessity of retaining the separate titles, rubrics, numbers and dates of the single acts, which do so much to confuse the general and even the professional reader in these parts of the Revision of 1860. It was, no doubt, with a full appreciation of this fact that the present Commission was instructed not only to "revise," and "arrange," but also to "rewrite" the statutes before us.<sup>196</sup>

In regard to the feature of uniformity of procedure, Mr. Justice William Miller, in the preface to one of his works on pleading and practice declares:

The necessity for a work of this character suggested itself to the author several years ago, indeed soon after the enactment of the Revision of 1860.

The Code of 1851, whatever may have been the intention of its authors and of the legislators, did not entirely cut loose from the old rules and principles of pleading and practice, known in common law and chancery proceedings, and provide a new system of its own — simple, complete and perfect. This the Revision professes to do. It gives us a uniform system of procedure in all actions, excepting as to the mode of trial and the manner of producing the evidence in equitable actions — properly so called.

Notwithstanding this was the object of the Revision, it is well known that we are far from having uniformity in actual practice under its provisions. By a comparison of the pleadings in actions in one part of the State with those in another, it will be found that the differences under the same system are wide and radical. While some lawyers follow the substance of the old common law forms, others adopt the forms of the old chancery pleaders, alleging all the

<sup>196</sup> *Report of Commissioners to Revise the Statutes*, 1871, pp. 5, 6.

facts, the evidence to prove them, allegations of information and belief, arguments and legal conclusions.

Believing the design of the civil practice act to be the complete abolishment of both the old systems *as such*, and the establishment of a new one radically different, and founded in good sense and practical wisdom, I became impressed with the idea that a treatise devoted to the practical elucidation of the new system would tend to promote the object of the legislature, in its enactment, secure greater uniformity in the pleadings and proceedings in civil actions, and be of benefit and general convenience to the practicing lawyer, besides supplying the wants of that class who are engaged in preparing themselves to enter the profession. For these reasons, and seeing the field unoccupied, I felt myself justified in the undertaking.<sup>197</sup>

#### SUBSEQUENT LEGISLATION

There was not much subsequent legislation relative to the *Revision of 1860*. The Ninth General Assembly passed two acts making amendments to various sections in the Code of Civil Practice.<sup>198</sup> In the Tenth General Assembly an effort was made to sell the *Revision of 1860* at the price of \$1.50, but the Committee on Ways and Means defeated the measure by reporting unfavorably thereon.<sup>199</sup>

In 1866 Mr. W. S. M. Abbott of Adel introduced a bill "to organize a commission to revise the laws on the subject of county and township government", but this bill was reported on unfavorably by the Committee on County and Township Government to which it had been referred, and consideration of it was dropped.<sup>200</sup>

During the session of 1868 there were a large number of amendments proposed to the *Revision of 1860* and this fact served as a notice that a new codification of the laws of

<sup>197</sup> Miller's *A Treatise on Pleading and Practice*, 1868, Preface, pp. 3, 4.

<sup>198</sup> *Laws of Iowa*, 1862, pp. 173, 229-231. See also *House Journal*, 1862, pp. 732, 734.

<sup>199</sup> *House Journal*, 1864, pp. 283, 327.

<sup>200</sup> *House Journal*, 1866, pp. 256, 380.

Iowa would soon be needed.<sup>201</sup> Action in response to this need was taken in 1870 by the Thirteenth General Assembly in appointing a commission to revise the statutes.<sup>202</sup>

THE MILLS BROTHERS CODE

The Codes of Civil and Criminal Procedure were to take effect on September 1, 1860,<sup>203</sup> but it was found early in the year that it would be impossible to have the *Revision of 1860* printed and distributed by that time. Consequently, Mills Brothers, publishers and printers at Des Moines, got out an octavo sized volume of three hundred and forty-six pages containing these two acts. The title page of this volume reads:

CODE  
OF  
CIVIL AND CRIMINAL PRACTICE,  
AS PASSED BY THE  
EIGHTH GENERAL ASSEMBLY  
OF THE  
STATE OF IOWA,  
APPROVED MARCH 29 AND 30, A. D. 1860.

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DES MOINES, IOWA,  
MILLS BROTHERS, CALORIC PRINTERS,  
COURT AVENUE.  
1860.

This volume was published in May, 1860, and the reasons for its issuance are fully stated in the "Introductory" statement. In part it reads:

As the New Code of Civil and Criminal Practice, adopted at the

<sup>201</sup> An idea of the number of amendments offered can be gained by looking in the *House Journal*, 1868, at pp. 793 and 813, and in the *Senate Journal*, 1868, at pp. 615 and 636.

<sup>202</sup> *Laws of Iowa*, 1870, pp. 75, 76.

<sup>203</sup> *Revision of 1860*, Section 4171, p. 715; also Section 4424, p. 759.

recent Session of the General Assembly, will take effect some months before that volume is regularly published by the State, and in view of the immediate importance to Attorneys, Justices and County Officers, that they should have time and opportunity to become familiar with the new regulations governing the proceedings of Courts, which are entirely different from the present system of practice—the undersigned, at the earnest solicitation of many Attorneys, determined upon issuing a limited number of copies of this volume, in order to supply the present demand.

These Practice Acts have been prepared by a Commission selected from our most able jurists, and are considered equal if not superior to the Statutes of any State in the Union. To show the estimation in which they were held by the General Assembly, it is only necessary to state that they were adopted as originally reported to that body with but few amendments.<sup>204</sup>

Honorable John A. Kasson of Des Moines prepared an index to this volume and the acts are certified by Elijah Sells, Secretary of State, to be correct copies of the original acts.<sup>205</sup> The book was sold for \$2.50 per volume.<sup>206</sup>

#### GENERAL LAWS FOR SUPERVISORS AND TOWNSHIP OFFICERS

In addition to the two volumes already described there was published a third volume which contained the laws of Iowa on certain subjects. By an act approved on the 2nd day of April, 1860, it was ordered:

That the Census Board of the State shall as soon as practicable after the adjournment of this session of the General Assembly, cause to be printed by the State Printer, fifteen thousand copies of a volume, in pamphlet form, containing all the general laws of this State pertaining to the duties of the Board of Supervisors, Supervisors of roads, Township Trustees, and other Township officers, together with such practical forms and suggestions as the Board may deem necessary.<sup>207</sup>

<sup>204</sup> *Code of Civil and Criminal Practice*, p. 3.

<sup>205</sup> *Code of Civil and Criminal Practice*, Explanatory statement.

<sup>206</sup> See *The Iowa State Register*, Des Moines, Vol. V, No. 14, May 16, 1860; and *The Tipton Advertiser*, Vol. VII, No. 16, April 19, 1860.

<sup>207</sup> *Laws of Iowa*, 1860, pp. 84, 85.

360 IOWA JOURNAL OF HISTORY AND POLITICS

The title page of this volume, which contains four hundred and fifty-six pages, is as follows:

GENERAL LAWS  
OF  
THE STATE OF IOWA,  
RELATING TO THE DUTIES OF THE  
BOARD OF SUPERVISORS AND TOWNSHIP OFFICERS,  
INCLUDING  
CIVIL AND CRIMINAL PROCEDURE IN JUSTICES' COURTS.  
PRINTED BY AUTHORITY OF THE EIGHTH GENERAL ASSEMBLY, UNDER THE  
SUPERVISION OF THE CENSUS BOARD OF THE STATE.

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SAMUEL J. KIRKWOOD, Governor, ELIJAH SELLS, Secretary of State, J. W. CATTELL, Auditor of State, JOHN W. JONES, Treasurer of State,	}	CENSUS BOARD.
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DES MOINES:  
JOHN TEESDALE, STATE PRINTER.  
1860.

The creation of the County Board of Supervisors, who were to exercise all powers of a legislative and administrative character in the county, was the principal reason for publishing this book.<sup>208</sup> It was the purpose of the book to lay before county and township officers the changes in the laws which affected local affairs.

The book is divided into two parts, the first dealing with county and township affairs, while the second part deals with "Justices and Justices' Courts", prescribing the method of procedure in both civil and criminal actions. Any section in the work can be easily referred to, as there is a complete table of contents and an extensive index. Each chapter is also supplied with head notes and in the

<sup>208</sup> *General Laws for Supervisors and Township Officers*, 1860, Preface, p. iii.

margins are reference notes, telling from what section of the original act the particular section was taken. There are also various forms to be found in the book for the guidance of county and township officers in the performance of their duties.

This work appeared some time before the *Revision of 1860*, and consequently the contents were taken directly from the original acts.<sup>209</sup> Mr. Thomas F. Withrow and Mr. S. V. White of the Des Moines bar aided the Census Board in "the collection and arrangement of the material", and Mr. White prepared the forms in part two.<sup>210</sup>

It is impossible to state the value to the State of this publication. The *Revision of 1860*, containing all the law, appeared soon after this work, and no references to this smaller collection of statutes appear to have been made.

#### CONCLUSIONS

The *Revision of 1860* was adopted in portions. Parts one and two, were simply collections of statutes passed at various sessions of the General Assembly. Part three was approved on March 20, 1860,<sup>211</sup> and the Code of Criminal Procedure on March 30, 1860.<sup>212</sup> These latter parts took effect on September 1, 1860.<sup>213</sup> The *Revision of 1860* remained in force until displaced by the *Code of 1873*, although many sections were amended by the legislature during the intervening period.

The *Revision of 1860* is not a high class piece of work mechanically. It shows a haste in preparation that is to be deplored in a volume that is intended to serve as the guide to the laws of a Commonwealth. Nor are the materials used

<sup>209</sup> *General Laws for Supervisors and Township Officers*, 1860, Preface, p. iv.

<sup>210</sup> *General Laws for Supervisors and Township Officers*, 1860, Preface, p. iv.

<sup>211</sup> *Revision of 1860*, p. 717.

<sup>212</sup> *Revision of 1860*, p. 854.

<sup>213</sup> See note 203 above.

of the quality that is demanded in a work of this character. The arrangement of the laws, also, leaves much to be desired. The notes and references, though of some value, could, perhaps, as easily and as well have been left out.<sup>214</sup> The reprinting of the reports of the Code Commissioners does not appear to have been of any practical value and makes the book appear in places more like a text book on the laws than the laws themselves. The Commissioners, however, were not alone at fault. The legislature is to blame for the enactment of the law in the form in which it appears. Under such an act the Commissioners could not make a harmonious revision. In order to reconcile statutes passed at different times and relating to the same subject it is almost a necessity that the reviser be allowed to make changes in the phraseology, but according to the interpretation put on the act by the Commissioners, they were not authorized to do this. Consequently the *Revision of 1860* is in part simply a compilation; and in part, a revision and codification of the laws.

It also appears that the legislature insisted on haste and the result was only natural, that the *Revision of 1860* is not a work that measures up to the standard of the other codes of Iowa statute law.

CLIFFORD POWELL

THE STATE HISTORICAL SOCIETY OF IOWA  
IOWA CITY

<sup>214</sup> The *Revision of 1860* contains good marginal references, however, and an excellent index covering 153 pages.

## DIARY OF A JOURNEY FROM THE NETHERLANDS TO PELLA IOWA IN 1849

TRANSLATED FROM THE DUTCH BY JACOB VAN DER ZEE

[John Hospers, the writer of the diary of which the following is a translation from the Dutch language, was born at Amsterdam, The Netherlands, on the 30th of August, 1801. He taught school from an early age until he emigrated with his family and scores of other Hollanders to the State of Iowa, where in the year 1847 several hundreds of his fellow-countrymen under the leadership of Rev. Henry Peter Scholte had established Pella in Marion County.

The reason which moved Hospers to seek American shores was later expressed by himself in a brief autobiography as follows:

"In all my positions the Lord had furnished me a liberal income and livelihood. . . . When I made busy to emigrate to America, everybody expressed surprise and asked why I should go, I who was so well-to-do and so generally esteemed.

"I had an income more than sufficient to enable my family to live in a respectable manner, but inasmuch as I laid most stress on the education and training of the youth, I could not bear to see the Bible kept out of the schools and education no longer Christian.<sup>1</sup> And although God's Word had never been excluded from my school, and the instruction—however defective—had been presented in a Christian way so far as I could, since the inspector of my school, Haefkens, never personally forbade me, I knew nevertheless what his orders were, and therefore I preferred to remove to a free country where I could worship my God unhindered according to the dictates of my conscience.

"My desire to emigrate was increased also by social relations with true Christian people who were rare in that day. In the winter of 1848-1849 A. C. Kuyper, J. Maasdam, and myself united to act as a committee to promote a second exodus to North America. Kuyper had Rotterdam and vicinity; Maasdam took Utrecht and North Holland; and I had South Holland, North Brabant, and Gelderland."

Thanks are due to Mr. Nicholas Hospers of Pella, Iowa, for permission to read and use his father's autobiography and diary.—*Translator*.

*Tuesday, May 1, 1849.* With regard to the Danish war-ships, I journeyed to Rotterdam from Hoog Blokland to inquire concerning the arrangements to be made in behalf

<sup>1</sup> This was one of the potent factors which led to the emigration of hundreds of Seceders from the State Church of Holland to Michigan and Iowa: they desired the doctrines of pure Calvinism in their churches and schools.

of all my fellow-passengers to Pella: whether to go by way of the English channel protected by Danish warships, or even to charter an American ship, or to sail by way of Havre. Learned at Rotterdam that the vessel "Franziska" (of Bremen construction), Captain Hagedoorn, is sold to a Russian firm and shall henceforth fly the Russian flag, by which means international complications are rendered impossible.<sup>2</sup>

*Wednesday, May 2.* With the aid of C. Timmermans, A. A. Hupmans, and Woutrina Sterk, the bedding which we slept upon during the night in the Blokland schoolhouse was fairly well packed up and then conveyed by wagon to Gorinchem. E. Aanen, burgomaster of Hoornaar, with his little covered wagon, and A. Aanen brought my family to the steamboat at Gorinchem, leaving Hoog Blokland at 4 o'clock in the morning, a large number of people having assembled at that early hour. At half-past 5 o'clock we left Gorinchem by steamboat. At Rotterdam women and children rode in cabs from the steamboat landing to the Danish, now Russian, ship "Franziska".

*Thursday, May 3.* Passed a fairly restful night in our strange abode. Everything is being done to make our sojourn on the ocean as pleasant as possible. At 11 o'clock p. m. the "Franziska" left the docks and put out to sea while we were asleep.

*Friday, May 4.* Arrived at Hellevoetsluis at 2 or 3 o'clock p. m. Here the captain called a roll of passengers, and as a result of the discovery that there were two more passengers than the number allowed, viz., 160, a second roll-call was held on deck towards evening. Now it is perceived

<sup>2</sup> The emigrants must have chartered this Danish sailing-vessel before Denmark and Prussia got into difficulties over Schleswig-Holstein. The declaration of war seems to have frightened the Hollanders into anticipating some interference with their proposed journey.

that the transportation agents, Hudik and Blokhuisen, dealt very roguishly with us, with the result that the captain will have to take the two extra passengers into his cabin upon his own responsibility in New York, and for this we must pay eighty-five gulden for each of the two persons to the captain. With regard to this matter I have addressed to the agents a letter (which I shall give to the pilot to post), asking them to send a draft for 170 gulden on their office at New York where we may recover on our arrival. When the passengers had gone to sleep, I went out on deck and listened for the last time to the song of Holland's water nightingales, otherwise known as frogs, and it is difficult to describe the emotion which now takes possession of me.

#### BEGINNING OF THE OCEAN VOYAGE

*Saturday, May 5.* At 3:30 in the morning, the "Franziska" set sail. The voyagers were summoned early to appear on deck, and there at the captain's request I read to them the ship's regulations for the preservation of order and cleanliness. We sailed with an east wind, slowly at first, but we soon lost sight of Holland: the wind grew stronger and we sailed three or four hours<sup>s</sup> in one hour. At about 11 o'clock p. m. we could see the lights of England and France. Very few people free from seasickness.

*Sunday, May 6.* Strong, east wind: in the channel a distance of five hours is covered in one hour. We see numerous ships, and at 4 o'clock p. m. we catch sight of the chalk cliffs of England. General complaint about seasickness. Difficulties have arisen with regard to the use of the cook's galleys, the maintenance of cleanliness, and the care of fire-

<sup>s</sup> This method of measuring distances is still quite common among the people of Europe: Walking at the rate of three miles an hour is a convenient unit. Hence "three or four hours" on land is nine or twelve miles per hour on sea.

wood.<sup>4</sup> Religious exercises on deck led by Kuyper: Psalm 1. A number of ships in sight. Birds follow and rest upon our ship.

*Monday, May 7.* East wind, and rain. In the channel, at 4 o'clock p. m., sight of the chalk cliffs of England.

*Tuesday, May 8.* Wind southeast, nice weather. At nine o'clock in the Atlantic Ocean. The captain informs us that the water at Hellevoetsluis is green, farther out dark green, then blue, and in the Atlantic Ocean dark blue. Until to-day we have seen ships every day. While I am writing in the cabin, a little bird comes flying to me and sits sociably on my paper.

*Wednesday, May 9.* Wind east-southeast, good headway. We see three or four swine fish. According to the mate's assertion, from 4 to 8 o'clock this morning we covered a distance of eighteen hours. At 4 o'clock p. m. we are speeding along at the rate of 75 hours a day. The captain says that Rotterdam lies 900 German miles from New York, (2000 hours). We pass a large drifting beam. Last night we passed three ships.

*Thursday, May 10.* Wind southwest. Three ships in sight this morning: at 10 o'clock we have sailed past one; at 12 o'clock, the second; and in the afternoon the third. The "Franziska" overtakes everything she meets.

*Friday, May 11.* Wind southwest; speed 90 hours a day, and we pass another ship. High seas, and a terrific jolt jumbles up all the boxes in the ship. My ink-well is upset and a cup of sago stains my little book. The passengers are becoming very seasick. Religious exercises in the afternoon, led by Maasdam. Afterward Kuyper catechises the children.

<sup>4</sup> The passengers prepared their own meals upon the ship's stoves, taking turns, and were responsible for the cleanliness of their own quarters.

*Saturday, May 12.* Wind west; very tempestuous sea, and seasickness increases rather than decreases: in general the passengers care very little for food. We are sailing far north and so the air is cold.

*Sunday, May 13.* The captain says that we have finished one third of the journey, and are now sailing at  $24^{\circ} 8'$  longitude (Greenwich) and nearly  $50^{\circ}$  latitude. An English ship which we approach is hailed, whereupon she bears down on us full-sail, but upon seeing the Russian flag, she pulls in her own flag and goes on. In the afternoon religious worship below deck, on account of the rough, cold weather, led by Maasdam: 1 Cor. 10.

*Monday, May 14.* Wind northwest. We are all suffering from seasickness or its effects. We are sailing nicely in good weather; the sea too is fairly calm, so that almost all are again on deck. Gerrit has a fever. Upon invitation Maaïke Hospers and Suzanna de Boer are sewing and darning for the captain in his cabin, where they are pleasantly entertained. Father Middelkoop has a high fever.

*Tuesday, May 15.* Father and Eva are suffering from diarrhoea, my wife too, while Peter Hendrik is recovering. Wind east, with rain. We are making good progress. The captain invites William H. into his cabin and gives him cookies. Father Middelkoop lies sick abed all day. Peter H. is improving a little. At 5 o'clock in the morning we are awakened; the healthy men go out to scrub the deck; then sweet-water is distributed, a cup of tea is drunk, breakfast, common prayer in our part of the ship, reading, singing, and thanks. Every forenoon the ship is scrubbed and cleaned below deck by two men — a new shift each day — under the supervision of one of the three committeemen, A. C. Kuyper, J. Maasdam, and J. Hospers.

*Wednesday, May 16.* Making good headway. There is

much preaching from God's Word. Religious exercises every day as proposed are sometimes hindered by the wind and cold rains. To the prevailing seasickness one person has fallen a victim: a two-year-old child died last night at 11 o'clock. First, Maaïke van Gorp.

*Thursday, May 17.* Ascension Day. Good headway. The Lord leads us tenderly and with love. The second mate gives William H. handful of prunes. Wind east, with rain, so that the ship pitches terribly; one can hardly make use of the cook's galley; and passengers must stay below. In the evening the captain comes to give me instructions as to letting the body overboard tomorrow morning at 7 o'clock, desiring that then the passengers be present: he would lead in prayer and we should sing a couple of stanzas. At the captain's request I notify all passengers. The body has already been wrapped and sewed in canvas by mate and seaman, and placed in the sloop which stands on deck.

*Friday, May 18.* At 4 o'clock in the morning dies Cornelius Louwe, second, of Goeree, 34 years of age. At 7 o'clock the passengers come out on deck; the first mate fastens the child's body to a canvas sack filled with stones and places the corpse on a board, which lies with one end resting on a cask and the other extending overboard. The captain stands at one end near the cask, reads solemnly in high-German, and then commands the seamen who stand on opposite sides of the board to let the corpse slide into the water. All stand with uncovered heads. At the captain's word Maasdam announces the singing of Psalm 103: 8 and 9. The solemnity is impressive. Storm in the evening; much commotion in the ship.

*Saturday, May 19.* Strong west wind. Mighty waves, one of which comes to make us a visit in the ship. The captain notifies me to let the body of C. Louwe overboard

at half-past 2 o'clock, and asks me for a prayer-book. After consultation with Maasdam and Kuyper we suggest to the captain that he read the 90th Psalm at the ceremony. The captain asks me to do so after the corpse is let down into the sea. This takes place at half-past two; the people are gathered on deck; the seamen are lined up on both sides of the plank which bears the body; the captain reads high-German; and then the corpse is delivered to the waves. Hospers then reads Psalm 90, and announces the singing of Psalm 89: 19. Storm from the northwest.

*Sunday, May 20.* Northwest storm. Numerous waves enter the ship; the rolling and pitching is violent; everything rumbles and jolts and tosses and breaks. Prayer-meeting in two groups. Great dejection reigns. Nothing can be cooked — only cold things to drink. Never in our life a more wretched Sunday. The storm increases its fury as the darkness of night comes on. Sailors run on deck with knives in their hands to cut the ropes in case of necessity.

*Monday, May 21.* Wind northwest. Storm calms a little — fearful waves still rolling.

*Tuesday, May 22.* Strong west wind. Since Saturday, May 12, the barber has not dared to shave us on account of the ship's rolling. At about 5 o'clock an English ship is hailed. The wind grows fiercer and fiercer. A. C. Kuyper wakens us all in the night on account of the heavy storm, whereupon a general awakening takes place in the ship. A. Kuyper offers up prayer in the midst of his family.

*Wednesday, May 23.* Storm. The captain who has made 50 voyages to America declares it noteworthy that we should meet with so many storms this time. We earnestly desire to find more contrition among the passengers. Klaas Vos, of Den Hitzerd, 54 years of age, dies. There are still

sick people on board. Light cases of scarlet fever prevail, manifested especially in sore throats.

*Thursday, May 24.* Fine weather, but cold. We are shaved. Now people come out to sit on deck. We ate pancakes, with good appetites. After I had, at the captain's request, notified all passengers of the ocean burial, the ceremony took place at 2:30 o'clock — the people on deck, sailors bareheaded lined along the plank which bears the body, captain at the end, Hospers next to him. Captain reads in high-German, orders the corpse to be lowered, gives the word to Hospers who reads Psalm 12, and asks for the singing of Psalm 39: 3 and 4. The pleasant weather lures us out to smoke a pipe on deck. Father Middelkoop, Gerrit, and I are soon seated thus, conversing about Pella. I inspect the quarters below, where the captain burns chloride of lime for disinfection.

*Friday, May 25.* A calm north wind with which we sail into the west. Towards evening we see near the ship thousands of creatures called lobes or dew-laps as large as big goose-eggs, striking out with their legs, of yellow, gray, and blue color. They are poisonous; when one picks them up, one's hand will swell. They are not seen in the winter. Scarlet fever still prevails in a light degree: Keetje, Gelder, and Eva are not free. Father Middelkoop was on deck once more yesterday: he made pancakes on the cook's galley, also pork and cheese cakes.

*Saturday, May 26.* North wind, nice warm weather. The captain asks everybody to declare the number of boxes and amount of property.

*Sunday, May 27.* Strong wind. All passengers remain below. Little progress. Keetje has scarlet fever. Klaas and Gelder too are not feeling fresh. Peter Hendrik is becoming very thin and causes us much alarm.

*Monday, May 28.* Pentecost Week. Wind northwest. To-day we celebrated with C. van Andel the birthday of his father. To that end C. van Andel gave two bottles of wine, and we furnished thin little pancakes with currants.

*Tuesday, May 29.* East wind — we are sailing straight towards America. Rain prevents us from staying on deck. Afternoon, strong west wind; at 10 o'clock p. m. the wind becomes favorable and the passengers who were still awake help the seamen with their sails.

*Wednesday, May 30.* Wind west-northwest, nice weather. By order of the captain bedding is brought on deck and aired, while the floor is scrubbed and unusually well cleaned. In the afternoon I am called out to see a whale which I caught sight of twice. No matter how big and broad the ocean may be, the whale tells of his presence by spouting water about six yards high. Once I saw him at full length, which I cannot estimate, but he was large.

*Thursday, May 31.* Last night a child of Anthony Klein died at the age of eighteen months. I told the mate, who had the body brought on deck by a sailor. Favorable north wind — good progress. As we sail along we express our surprise at the large number of sea birds which we see flying every day, especially in the middle of the ocean, far distant from land. They are called sea-mews. Flying fishes were seen.

*Friday, June 1.* Nice, calm weather. The ocean is smooth and shiny as a mirror. The little body was let overboard at 2:30 — ceremony as usual. I read Revelations 20, and we sang Psalm 89: 19; Maasdam closed with prayer. About 4 or 5 o'clock we saw a few large fishes, dolphins, which pursued the birds. These fish swim so fast that the birds have difficulty in outstripping them. Then we saw these robber fish with big, wide-open jaws leap high above

water and attack the low-flying birds which, as from terror, appeared unable to fly high. Thus we saw how swift-flying birds can fall a prey to the greedy, pursuing fish.

*Saturday, June 2.* Strong south wind. What a difference between the sea now and yesterday! Very rough — how the waves roll, how they foam; it is as if the sea were boiling. The foam flies and drifts or hovers upon the waves; the ship points skyward to descend immediately into the ocean trough, and then descends so suddenly with such violence that one cannot imagine it: one must experience it! Once a wave found its way over the top of a protecting wall nearly five feet high, a visit which we did not desire — the ship pitches terribly, sometimes at 45 degrees. It is well that all things suitable for the purpose can be fastened.

Most people stay below, only young people go out on deck to watch the seething ocean, and with all this I see no sign of fear. Indeed, I even hear someone below playing a flute, so accustomed a simple landlubber becomes to the foaming sea. In this colossal power of nature we perceive only the wonder of the Lord's handiwork, and the sea unchanged as at the creation. All of a sudden it becomes dead-still, with heavy rain: we are off the Newfoundland banks. The captain stands, seriously watching the weather. In this sea many a ship has lost its masts in a storm which very suddenly follows the rain and the dead-calm, and comes from another direction, so that the seamen have no time to haul in their sails. In that calm followed by high seas the rudder can do nothing and so the ship is surrendered to the mercy of the wild waves, which is very dangerous.

*Sunday, June 3.* We are still off the Newfoundland banks with north wind. Good progress. Yesterday evening the mates saw a ship, to-day at 8 a. m. we see that it is an

English brig; at 10 o'clock we approach so near that the captains can call to one another with or without a speaking-trumpet. They have already journeyed 40 days and come from Liverpool. The ship is also filled with emigrants: we were so near them that we could follow their movements clearly. Religious worship led by Kuyper: Psalm 107. Again in the afternoon. Our daughter Maaïke and Suzanna de Boer, a God-fearing girl, were invited by the captain to partake of dinner in his cabin. She went reluctantly, upon our insisting that she keep Suzanna company, because it was promised and the captain had depended on her coming. Hardly had dinner commenced when Maaïke comes back ill and goes to bed.

*Monday, June 4.* Nice, calm weather. This was our best day on board. The Lord took pity on my daughter Maaïke. After a spiritual struggle and attack by Satan, she was able to learn to know the Lord in His pitying love and the all-powerful mercy of Him who had chosen her before the foundation of the world. We saw a school of fish like large cod defending a dead fish against the sea-gulls; some jumped high out over the water, captured a preying gull and pulled him down into the depths.

*Tuesday, June 5.* Wind southeast, good progress. 54° longitude, 40° latitude, New York 65° longitude, 42° latitude. Birthday of C. van Andel. Maaïke is losing strength; her bodily condition does not improve, but her mind is active. A little child of W. van Vark dies.

*Wednesday, June 6.* Maaïke's physical condition grows more serious, her chest loosens, phlegm gurgles in her throat, the captain's medicines appear fruitless, Jesus loves her and she loves Jesus. We see her end approaching — at 12 o'clock the Lord takes her unto Himself! Who can fathom God's ways? Oh, let us not murmur!

*Thursday, June 7.* The death of our dear Maaïke shocks us terribly.

*Friday, June 8.* This night there died: Gerrit Bezemer, 5 years; Adriana Klein, 7 years. We see many swine fish, even very large ones. The captain who had invited me and my wife to lodge a few days in his cabin now invites me to have a glass of Malaga and small stuff, and gives me American newspapers in the English, high-German, and French languages.

*Saturday, June 9.* In the morning at 7 o'clock the little bodies were lowered into the ocean. I read Psalm 39 and we sang Psalm 39: 3 and 4. East wind, good progress. We pass Sable Island which is desolate and uninhabited.

*Sunday, June 10.* At 9 o'clock, worship of God, led by Maasdam: Romans 13. My wife and I dine with the captain. After measurements, captain with sextant and first mate with octant, it is discovered that we are still 135 German miles and two hours from New York. East wind, and we sail at least 80 hours per day. Our ship is busily visited by swine fish. Died, the ninth, Hendrik Obertop, 7 years.

*Monday, June 11.* The body of H. Obertop is let overboard at 7 o'clock. East wind, also northeast. We make rapid headway, the fastest of the whole journey. This night 20 hours in one hour. Died, the tenth, Peter Hendrik Hospers, at 5 o'clock in the afternoon, at the age of 2 years, 4 months.

*Tuesday, June 12.* Northeast wind. Nice weather. Good progress. At 10 o'clock a. m. we were at  $68^{\circ}$ , and as New York lies at  $74^{\circ} 3'$  and a degree is about 14 hours, our voyage will last 84 hours longer. At 2:30 the earthly remains of Peter Hendrik are lowered into the ocean. From the

preparations on board, it appears we are expecting land; as cleaning, better clothes, anchors, chains, sounding-lead, looking for the pilot, etc.

*Wednesday, June 13.* In the morning we see land. At 10:30 the pilot comes on board, at 5 o'clock we are in New York bay — land and trees on both sides. Then we cast anchor.

*Thursday, June 14.* Doctor on board to see Keetje. Hope for recovery in two days. Keetje in the cabin. Captain and mate very accommodating. A powder followed with a little syrup, every five hours half a wine-glass of castor-oil, every 2½ hours a powder in water. The passengers enjoy the beautiful scenery on both banks. Doctor investigates the physical condition of the passengers. The same quarantine doctor visits Keetje who comes into the cabin.

*Friday, June 15.* Thank God, Keetje is resting. Busy packing up goods. By steamboat from the "Franziska" to New York. Lodged at No. 132, Greenwich Street. The population of New York is estimated at 600,000 inhabitants, yes, some say one million. Sometimes five-hundred horse-cars are seen driven up a very broad street; the sidewalks are broad, floored with large, flat stones.

*Saturday, June 16.* Lodging New York. Doctor van Siers, \$3. In the evening at 6 o'clock on the boat to Albany, 400 feet long.

*Sunday, June 17.* At 6 a. m. arrived at Albany. On a bridge kneels a handsome young minister of the gospel, praying in a loud voice, surrounded by about 50 American men, no women. After him an aged man begins to preach. This takes place every Sunday. Refused to admit our sick Keetje (who was sitting in a carriage) into a lodging-house near the steamboat. Further to German lodging-house, on the railroad street. Inhospitable treatment — willing to

keep night guests, but no day guests. In the evening we rode in a vehicle to the hotel of William Schmidt, Liberty Street, No. 41. In the evening A. C. Kuyper preaches in the Wyckoff school.

*Monday, June 18.* In Albany our baggage is weighed and at about 9 or 10 o'clock my fellow-passengers embark in two canal boats. Father, mother, Gerrit, Sijgje, Klaas, Gelder and van Andel accompanied them, also Dingman. In Albany there remained behind: J. Hospers and wife, Keetje, Eva, Wm. Hendrik, and Janna. In the evening Keetje is removed from the hotel of William Schmidt, Liberty St., No. 41, to Stubenrauch, South Pearl St., No. 213. (We had in all 5,250 pounds of freight to Buffalo).

*Tuesday, June 19.* Albany consists of about 50,000 inhabitants. Many houses have silver knobs, plates, numbers, and keyholes on their outer front doors. Albany is beautifully situated on the broad Hudson River, surrounded by hills and mountains. It is much hotter here than in The Netherlands. Everyone complains of the heat. At night one sleeps with open windows on mattresses with only a sheet as covering.

*Wednesday, June 20.* A letter from Albany to Henry.<sup>5</sup> In the evening we saw fire in our vicinity. At the ringing of alarms, fire-engines and men hasten to the rescue: hurry and bustle everywhere, but yet with caution, in true American style. Even women who dwell in the adjacent houses clamber out upon their roofs to sweep off the sparks. The fire originated in a lumber yard, which was all that burned and was quickly extinguished.

<sup>5</sup> Henry Hospers, oldest son of the writer of the diary, was a member of the pioneer band of Hollanders who founded Pella in 1847. He was then seventeen years of age and in 1870 became the chief promoter of emigration from Pella and vicinity to the fertile lands of Sioux County in northwestern Iowa.

*Thursday, June 21.* Early in the morning before Keetje woke up, bought in the market a bunch of 13 carrots for 5 cents. Friendly welcome by Rev. Wyckoff to Kuyper and myself. In the afternoon there was fire in a house on the hill.

*Friday, June 22.* During the night two fires. 96 degrees Fahrenheit, Albany. In New York: 96 degrees in the shade and 108 degrees in the sun.

*Saturday, June 23.* Zwiers, runner for Doge and Spaan, receives a letter from Kok who accompanied the passengers as guide to Cincinnati, reporting that K. Middelkoop had lost his ticket. Zwiers gives a duplicate ticket gratis to Buffalo and St. Louis, which with letters from Zwiers and Hospers are despatched by post to Buffalo. In the afternoon John, the seven-year-old son of A. C. Kuyper, dies in Albany and is buried there in Rev. Wyckoff's churchyard. I attended the funeral ceremony in the carriage which bore the body.

*Sunday, June 24.* In the morning in the Reformed Protestant Dutch church Rev. Wyckoff preaches in English on 1 James 2: 1; in the afternoon Kuyper preaches on Psalms 115: 3, with Psalm 97, verse 3, as an introduction. Keetje is 16 years of age.

*Monday, June 25.* Three new American potatoes for 2 American cents. At 3 o'clock in the afternoon a child of Nahu is buried in Rev. Wyckoff's churchyard.

*Tuesday, June 26.* In the afternoon went to see steamboats and departure of the railroad train.

*Wednesday, June 27.* A runaway, two horses into the Hudson. For the first time [in America] I saw a horse tied to a post. Went to look into a farm-implement shop.

*Thursday, June 28.* With Stubenrauch and A. C. Kuy-

per sought and found a place in which to hold this evening's prayer-meeting. The Mission Sunday-school of the Presbyterian church being let to us, A. C. Kuyper preached in the evening at 7 o'clock to an audience of 40: Psalm 86: 17.

*Friday, June 29.* Dr. de Nieve advises me to give my children, if the Lord allows them to survive the spring, medicines to purify the blood — tamarind, two medicine ounces, in a bottle of water, half boiled, to be taken with syrup or sugar, about four spoonsful daily. Fire at 11:30 p. m.

*Saturday, June 30.* A letter to Henry at Pella.

*Sunday, July 1.* Lord's Supper attended by Kuyper and myself in the Reformed Protestant church of Rev. Wyckoff.

*Monday, July 2.* Keetje is very critically ill. A. C. Kuyper starts out with his family on the journey to Buffalo.

*Tuesday, July 3.* Great preparations, exercises in fire-works, for the celebration of independence day.

*Wednesday, July 4.* 1776-1849 — seventy-third anniversary of American independence. In the morning the militia marches in uniform to drum and fife, followed by a fire-engine decorated with flowers. Early in the morning the celebration is announced by the toll of bells. All public business comes to a standstill. Everyone is dressed in gala attire. On the public squares of the city gatherings take place, where orators address the people from high platforms on the subjects of independence, liberty, and so forth, as compared with other parts of the world, so that the people's enthusiasm is roused to a high pitch. Even an aged minister, Rev. Wyckoff, rises and under the open sky prays that many of the oppressed people of the earth may with good fortune cross the seas and come to share in the freedom of spacious America.

At the chief meeting-place military music is rendered. From there starts a procession which parades in stately fashion through the city, as: militia companies with their officers, two cannon-wagons, besides a countless number of wagons and men on horseback, representing every branch of trade and industry such as teamsters with their carts loaded with barrels, boxes, and packs; cabinet-makers with splendid furniture, everything in finest trim; carriages drawn by six or eight horses of one color; corporations with their banners or colors, etc. Holiday everywhere — flags, bells, dress, fireworks, no employment, etc. All orderly and very unanimous.

*Thursday, July 5.* In the evening at 8 o'clock died Cornelia Gertrude Hospers, born June 24, 1833, aged 16 years and 11 days.

*Friday, July 6.* At 3 o'clock in the afternoon Keetje is buried, only a hearse and one other carriage, in the Wyckoff churchyard. We have agreed to take with us Jan van de Roovaart with his wife and two children, he agreeing to reimburse me for the traveling expenses either by means of his earnings or by direct payment. Thus we shall have traveling companions.

*Saturday, July 7.* Our intention to depart on the 12 o'clock train for Buffalo is prevented by the extraordinary crowd of emigrants, which causes us to fear the unsanitary results of close packing together, while we note in this a gentle reminder of the Lord's mercy not to desecrate the Sabbath.

*Sunday, July 8.* Among the crowd of emigrants who arrive on the steamboats from New York this morning, with Zeelanders, Frieslanders, and Gelderlanders, was the Rev. Verschuur who has been called to preach at ———. In the afternoon he preaches in the school-church of Rev.

Wyckoff, from Galatians 6: 14, while I read and lead the singing in Dutch style.

*Monday, July 9.* At 2 o'clock by train to Schenectady — Amsterdam at 3 o'clock, in 40 minutes from Herkimer to Utica, 15 miles (4½ hours).

*Tuesday, July 10.* Arrived at Buffalo at 6 p. m. Hotel. A hemorrhage compels me to summon the medical assistance of Dr. Haksteeg at Buffalo. Buffalo was first laid out 22 years ago and now counts a population of fully 56,000 souls. It grows every year with the building of houses, all of brick. It is a fine city, they say the most healthful in America, and lies on the shore of Lake Erie, opposite Canada which belongs to England.

*Wednesday, July 11.* In the morning we meet Kuyper who had arrived at night by canal boat. Paid the doctor \$2. He is a friend of Haefkens and corresponds with him.

*Thursday, July 12.* In the morning we leave the Dutch hotel, Washington Coffee-house (Itjen and Haijen), No. 5 Commercial St., Buffalo, and with A. C. Kuyper we embark on the steamboat Louisiana to Chicago.

*Friday, July 13.* At 10 o'clock in the morning left Buffalo with steam up. View of Canada belonging to England. In Buffalo temperature with cloudy sky 96° F.

*Saturday, July 14.* 9:45 at Cleveland, extraordinary calling and shouting at the pier by hotel-keepers and transfermen for patronage.

*Sunday, July 15.* In the morning religious worship led by Kuyper from James 1, first half. Steaming through the canal between lakes St. Clair and Huron. In the afternoon second half of James 1.

*Monday, July 16.* Good progress, without opportunity

anywhere to lie to, as we are on Lake Huron. 3 p. m. at Fort Mackinac at the northernmost point of Lake Michigan.

*Tuesday, July 17.* 10 p. m. at Milwaukee.

*Wednesday, July 18.* Noon, at Chicago, a fine business city, 23,000 inhabitants. Here there is no brick or cobblestone pavement in the streets, because they would sink if it rained, but the streets are paved with three-inch sawed boards on solid stringers, 100 feet wide, the highway being four boards in width and 2½ feet below the sidewalk along the houses on both sides. At 4 o'clock, on board the packet boat to Peru. Departure 7 o'clock. The boys here are especial lovers of kite-flying. Van Malsum has been deserted by his wife for the fifth time — he fears that she will return to Holland. Plij earns \$5 per week in a store in Michigan.

*Thursday, July 19.* In the packet boat which is drawn by three horses on a fast trot, we travel a straight distance of ten miles — therein we pass through a wooden basin which crosses a river and is supported by two stone-arches. Through this basin flows the canal in the same width, a towpath of boards alongside. The basin is 100 yards long, the river 100 miles. What a wonderful view in passing through! First our artificial canal with towpath, then beneath a broad streaming river, further on numerous waterfalls pouring over and among the rocks, etc.

At 11 p. m. arrived at LaSalle, a neat little town. There on Friday night of July 20, at 1 o'clock, embarked on the steamer "Feinolon" to St. Louis, to go as far as Peoria, where we arrived at 10 p. m. A German family of our traveling company recommends to us a hotel which does not suit us on investigation, so that we are allowed to pass the night with our baggage in the steamboat which thus serves as warehouse.

*Saturday, July 21.* In the morning from Peoria to the Clinton house — contracted with the stagecoach company to convey our family of seven and that of Kuyper of ten persons with two coaches, each drawn by four horses, to Keokuk for \$100, including the transportation of our bedding. All other baggage, about 5000 pounds, is carried by way of St. Louis to the address of Graham at Keokuk. At 9 o'clock we leave Peoria in the two coaches. We keep on riding with changes of drivers and horses, even at night, until 5 a. m. Sunday, July 22, when we reached Oquawka on the Mississippi River and ferried across to Burlington. Burlington is a town where our hotel was the first house 14 years ago, and now counts fully 4,000 souls.

*Monday, July 23.* My wife is ill.

*Tuesday, July 24.* Meet Mr. Bousquet. My wife not improved. Called doctor.

*Wednesday, July 25.* At about 10 a. m. in company with Kuyper, in three covered wagons, we left for Pella, at \$20 per wagon and each driver seventy-five cents per day, for their meals and feeding the horses. Passed night at New London for \$6.

*Thursday, July 26.* Baited at Mt. Pleasant. Mr. Wijkoff gives news of Henry. Arrived on a farm in the neighborhood of the Skunk River for \$2. In the evening we reached Brighton and spent night.

*Friday, July 27.* [Blank.]

*Saturday, July 28.* At 6:30 p. m. reached Pella, and housed with P. Welle.

*Friday, August 3.* Father K. Middelkoop and J. Hospers upon making their confession of faith before the church consistory were received as members.

## THE ASSAULT UPON JOSIAH B. GRINNELL BY LOVELL H. ROUSSEAU

### INTRODUCTION

It is the purpose of this paper to narrate the main facts and circumstances connected with an unfortunate incident in Congressional history, namely an assault made by Lovell H. Rousseau, member of Congress from Kentucky, upon Josiah B. Grinnell, member of Congress from Iowa, in the capitol building at Washington, D. C., in June, 1866. The trouble arose over a debate in the House on the "Freedmen's Bureau Bill", and in many ways this attack resembles the assault made by Preston Brooks on Charles Sumner ten years earlier. It is significant to note that the participants in the affair were affiliated with the same political party and that both were staunch supporters of the cause of the Union during the Civil War.

### JOSIAH B. GRINNELL

Josiah Bushnell Grinnell was born at New Haven, Vermont, on the 22nd of December, 1821. His ancestors on his father's side were of French descent. They were members of the party of Huguenots who, when the Edict of Nantes was revoked in 1685, migrated from France and established themselves on the chalky cliffs of Cardiff, Wales. Here they remained for about twenty-five years, and then they migrated to America and became well settled in this country in time to assist the thirteen colonies in their strife with England.<sup>1</sup>

Grinnell's ancestors on his mother's side were Scotch. The family name was Hastings and they were justly proud

<sup>1</sup> Grinnell's *Men and Events of Forty Years*, pp. 1-4.

of the eminence of the name in the annals of that country of renowned heroes. Nathaniel Hastings, the grandfather of Josiah B. Grinnell, came from Scotland to this country when but a youth and took part in the Revolutionary War. He was killed at the Battle of Plattsburg, and Grinnell's mother was left an orphan at a very early age.<sup>2</sup>

Thus it will be seen that Grinnell's ancestors on both sides sprang from good families of the substantial middle classes. This fact probably had a far-reaching effect on the attitude of Josiah B. Grinnell toward great public issues. His sympathies were always with the down-trodden or persecuted.<sup>3</sup>

Grinnell's parents were farmers of the old Puritan type and Josiah was brought up in a strict, religious atmosphere. He was given the best early education that was possible at that time in the community. At the age of twenty-two he was graduated from Oneida Institute. In 1847, five years later, he graduated from the Auburn Theological Seminary. He was then ordained a Presbyterian clergyman and followed this calling for about seven years. During this time he occupied several important pulpits, preaching in Union Village, New York, in Washington, D. C., and in New York City.<sup>4</sup>

In 1854 he came to Iowa and located at the small village which stood on the present site of Grinnell. He founded the Congregational Church at that place and preached there gratuitously for several years, although he later devoted the greater part of his time to farming and wool growing. At this time Iowa was just beginning to take a real part in national affairs, having been admitted to the Union as a State but eight years before. Grinnell took a

<sup>2</sup> Grinnell's *Men and Events of Forty Years*, pp. 1-7.

<sup>3</sup> Grinnell's *Men and Events of Forty Years*, pp. 8, 9.

<sup>4</sup> Appleton's *Cyclopaedia of American Biography*, Vol. III, p. 1.

keen interest in politics and in a short time became one of Iowa's best known citizens. In 1856 he was elected to the State Senate and served in that body until 1860. For the next two years he served as special agent for the Post-Office Department. In 1863 he was elected Representative in Congress from the Fourth District of Iowa on the Republican ticket. He held this position for four years; and it was during his second term as Congressman that the episode which forms the title of this paper occurred.<sup>5</sup>

Mr. Grinnell made an enviable record while in the Iowa Senate. He took an active part in the establishment of the free school system in Iowa. He was a bitter enemy of slavery, was an intimate friend of the notable John Brown, and was so active in aiding the escape of fugitive slaves that at one time a reward was offered for his head. At different times he was connected in various capacities with six railroads and he laid out five towns including Grinnell, Iowa, which was named for him. The proceeds of the sale of the building lots in that town were donated by him to Grinnell University, later known as Iowa College and now called Grinnell College, and he served as President of this so-called University for a time.

Thus it will be seen that Josiah B. Grinnell lived an extremely busy and useful life. He was an ever ready opponent of slavery and was a strong advocate of temperance. Fearless by nature, he stood boldly for what he thought was right, and his activities in religious, educational, and political fields mark him as one of the distinguished citizens of Iowa during the period of the Civil War and Reconstruction.

LOVELL H. ROUSSEAU

Of no less prominence was Grinnell's assailant, Lovell

<sup>5</sup> *Biographical Congressional Directory*, p. 565.

H. Rousseau, who was born in Lincoln County, Kentucky, on August 4, 1818. He received a very limited education and in 1833 his father died leaving the family in straitened circumstances. In 1839 when he became of age Rousseau removed to Louisville, Kentucky, and began the study of law. In 1841 he moved to Indiana, was admitted to the bar in that State, and began the practice of law at Bloomington. He was elected to the State legislature of Indiana in 1844 and became a very active member of that body. When the Mexican War broke out he raised a company of volunteers, as captain of which he served valiantly throughout the war. He returned to Indiana in 1847 and served two terms in the State Senate.<sup>6</sup>

In 1849 Rousseau returned to Louisville, Kentucky, where he very successfully continued the practice of law. He was an especially able man before a jury. At the outbreak of the Civil War he was one of the men who used their influence to induce Kentucky not to join the Confederacy. He was at that time a member of the State Senate of Kentucky, but resigned in 1861 and began raising troops for the Union army. He was appointed Colonel of the Fifth Kentucky Volunteers in September, 1861,<sup>7</sup> and was subsequently raised to the rank of Brigadier-General of Volunteers, being attached to the army of General Ormsby M. Mitchel. Still later he was appointed Major-General of Volunteers. He served valiantly in the battles of Shiloh, Stone River, Chickamauga, in the Tullahoma Campaign, and in the movements around Chattanooga. From November, 1863, until November, 1865, when he resigned, he had command of Nashville, Tennessee.

In 1865 Rousseau was elected to Congress from Kentucky on the Republican ticket, serving from December 4, 1865, to

<sup>6</sup> *Biographical Congressional Directory*, p. 777.

<sup>7</sup> *Appleton's Cyclopaedia of American Biography*, Vol. III, p. 336.

July 26, 1866, when he resigned after being censured for personally assaulting Josiah B. Grinnell in the capitol. During his short term in Congress he served on the Committee on Military Affairs.<sup>8</sup>

Lovell H. Rousseau, therefore, was a man who rendered great service to the Nation. Like Grinnell he possessed a fearless personality and was staunch in the support of the principles which he believed to be right. In spite of statements which are sometimes made, Rousseau was not a coward. His assault upon Grinnell was the result of a hot temper and does not portray the real character of the man. Judging from their public careers, Rousseau was without doubt the abler of the two men, but perhaps from the standpoint of personality and general character Grinnell attracted greater admiration.

#### THE DEBATE ON THE FREEDMEN'S BUREAU BILL

As proved by the investigating committee of the House and by the admissions of Rousseau, there is no doubt as to the cause of the assault upon Grinnell. The trouble arose out of a debate which took place in the House of Representatives on June 11, 1866, relative to the Freedmen's Bureau Bill.<sup>9</sup>

This bill was introduced in the Senate on January 5, 1866, by Lyman Trumbull, Senator from Illinois. It will be remembered that the Civil War had just closed and the country, especially the South, was still in an extremely unsettled condition. Congress had but a short time previous to the introduction of this bill passed the constitutional amendment abolishing slavery. But at the time Trumbull introduced his bill that amendment had not yet been ratified by two-thirds of the States. Indeed, it was in

<sup>8</sup> Appleton's *Cyclopaedia of American Biography*, Vol. III, p. 336.

<sup>9</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, p. 2.

view of this fact that Senator Trumbull presented the bill in Congress. The purpose of the bill in the words of the originator was "to enlarge the powers of the Freedmen's Bureau so as to secure freedom to all persons within the United States, and protect every individual in the full enjoyment of the rights of person and property and furnish him with means for their vindication."<sup>10</sup>

It should be borne in mind that a bill establishing a Freedmen's Bureau had been passed at the preceding session of Congress. The Bureau thus created was an institution with certain well defined powers for securing the absolute freedom of slaves where their former masters were obstinate. It also to a rather limited extent sought to find employment for slaves and in general looked after their interests. Many people in the North had grave apprehensions lest by local legislation or a prevailing public sentiment in certain communities the negroes would still be oppressed and in fact deprived of their freedom. It was to quiet this widespread idea that this bill was introduced on January 5, 1866. According to Senator Trumbull, the bill was introduced "for the purpose also of showing to those among whom slavery has heretofore existed that unless by local legislation they provide for the real freedom of their former slaves the Federal Government will, by virtue of its own authority, see that they are fully protected."<sup>11</sup>

Senator Trumbull stated that he humbly believed and hoped that it would not be necessary for the Federal Government to interfere in this matter, but as long as Congress had passed the constitutional amendment abolishing slavery it devolved upon Congress to see that every slave got his freedom in case the States failed to enforce the law.

<sup>10</sup> *Congressional Globe*, 1st Session, 39th Congress, p. 77. See also p. 129 for the introduction of the bill.

<sup>11</sup> *Congressional Globe*, 1st Session, 39th Congress, p. 77.

The bill was duly filed in the House and referred to a committee on January 25, 1866, but did not come up for consideration until early in February. Mr. Grinnell was a strong supporter of the bill, while Mr. Rousseau opposed it with equal vigor. The bill was being debated in the House on February 3, 1866, and in the course of the debate Rousseau related a certain incident that occurred in Kentucky under the existing Freedmen's Bureau laws. The incident in the words of Rousseau is as follows:

A man by the name of Blevins in my town came home one evening and found his wife engaged in some controversy and collision with a negro woman who had been her servant—not one who had belonged to her as a slave. He took part with his wife. . . . The negro woman complained to this agent of the bureau, and a couple of negro soldiers were sent there to arrest him and his wife. And because one of his little girls had said something in the matter an order was also sent for her arrest. The man came to me, supposing that I might be able to assist him. . . . Early the next morning I went to the commandant's headquarters, and there I found Mr. Blevins and his wife and children seeking protection against the Freedman's Bureau, acting on the complaint of the negro woman.

Now sir, I told the agent of that bureau just what I thought and felt in reference to this matter. I said to him, "If you want to protect the freedmen of this community I am with you heart and soul; I will stand by you in all just measures; but if you intend to arrest white people on the *ex parte* statement of negroes, and hold them to suit your convenience for trial, and fine and imprison them, then I say that I oppose you; and if you should so arrest and punish me, I would kill you when you set me at liberty; and I think you would do the same to a man who would treat you in that way, if you are the man I think you are, and the man you ought to be to fill your position here."<sup>12</sup>

Rousseau's purpose in relating this incident was to show that abuses had arisen under the operation of the Freedmen's Bureau; and instead of giving the Bureau more

<sup>12</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, pp. 39, 40.

power, as the proposed bill would do, he believed that much of the power it already had should be taken away or at least modified to a certain extent.

On February 5th the Freedmen's Bureau Bill was again under consideration. Grinnell was supporting it and Representatives Trimble and Rousseau were arguing against it. Representative Trimble had stated that the laws of Kentucky were honorable and just, and suited to the conditions of that State. In the course of his argument in reply to Mr. Trimble, Mr. Grinnell said: "I charge that they are monstrous and damnable laws, such as would be a dishonor to the most barbarous nation on the face of the earth, and I regret to apply the sound political maxim that no State is better than its laws. I would ask the gentleman why the legislature of Kentucky at its late session did not change or amend those laws, so that they might show that there was honor in the Kentuckian heart, that they were willing to mete out justice to all men."<sup>18</sup> Grinnell then went on to say that the laws of Kentucky which made it a penal offence for a man who had won a government uniform to go into that State were indicative of barbarism, meaning of course the discriminations which were made against negroes in Kentucky.

Grinnell then referred to the incident which Rousseau had cited on February 3rd, stating that Rousseau had said that if he were arrested on the complaint of a negro and brought before one of the agents of this Bureau he would shoot the agent when he became free. Grinnell in speaking of this remark by Rousseau said:

It is the spirit of barbarism that has too long dwelt in our land — the spirit of the infernal regions that brought on the rebellion and this war. . . . I care not whether the gentleman [Mr. Rousseau] was four years in the war on the Union side or four years on

<sup>18</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, p. 40.

the other side; but I say that he degraded his State and uttered a sentiment I thought unworthy of an American officer when he said that he would do such an act on the complaint of a negro against him.<sup>14</sup>

On the following day, February 6th, Rousseau took the floor and attempted to make a personal explanation. He denied that he used the language imputed to him by Mr. Grinnell and he denounced Grinnell's assertion "that he had degraded his State and uttered a sentiment . . . unworthy of an American officer" as vile slander and unworthy to be uttered by any gentleman upon the floor of the House.<sup>15</sup>

When the Freedmen's Bill was again debated on the 8th of February, Grinnell and Rousseau had a further discussion. The chief point of controversy was as to the power possessed by the particular officer in the incident which Rousseau had cited. Rousseau argued that the agent acted entirely outside of his sphere and hence deserved to be shot. Grinnell contended that the agent was simply fulfilling his duty as an officer of the Freedmen's Bureau.<sup>16</sup> At this point the question was dropped for more than four months. The bill was referred to a committee and came up again on June 11th for further discussion. It was the words of Grinnell on June 11th that caused Rousseau to assault him a few days later, on June 14th.

The whole discussion between Rousseau and Grinnell on June 11th hinges around the statement made by Rousseau in regard to the incident connected with the Freedmen's Bureau in Kentucky, namely: "If you intend to arrest white people on the *ex parte* statement of negroes and hold them to suit your convenience for trial, and fine and im-

<sup>14</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, pp. 40, 41.

<sup>15</sup> *Congressional Globe*, 1st Session, 39th Congress, p. 688.

<sup>16</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, p. 45.

prison them, then I say I oppose you; and if you should so arrest and punish me I would kill you when you set me at liberty." Grinnell again said that when Rousseau uttered this statement he degraded his State and uttered a sentiment unworthy of an American officer. Rousseau claimed that Grinnell insulted the good name of the State of Kentucky and also did him (Rousseau) a great personal wrong. A war of words was waged over this point for some time. Rousseau referred to Grinnell as a "pitiable politician from Iowa", whereupon Grinnell assailed the military record of Rousseau. He declared that when there was a big battle Rousseau always managed to escape it. "His military record!", asked Grinnell, "Who has read it? In what volume of history is it found?"<sup>17</sup>

The debate became purely personal in nature, despite the efforts of the Speaker of the House to stop it, and it was waged over extremely trivial points. At the close of the debate Grinnell had apparently a little advantage over his opponent. Rousseau's last words were: "I hope now that I have heard the last from the member of Iowa. I hope that I shall never have occasion to refer to the subject again. Whatever glory he has gained in this contest I am content that he should wear."<sup>18</sup>

Hence it seemed from all appearances that the incident was closed. Nothing more was heard or said about it and the unfortunate affair was being rapidly forgotten, when three days later, on Thursday, June 14th, Rousseau assaulted Grinnell with a cane on the steps of the capitol building.

#### THE ASSAULT

The assault took place just at the close of the session of the House at three-thirty on the afternoon of the 14th of

<sup>17</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, pp. 42-44, 46, 47.

<sup>18</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, p. 47.

June, 1866. The place of the attack was on the east portico of the capitol building. Immediately after the House had adjourned Mr. Grinnell passed out through the rotunda with the intention of taking a street car to his place of residence. He was stopped by Rousseau, who stated that he had waited four days for an apology for his conduct toward him in the House on Monday, June 11th. Grinnell calmly replied, "What of that", or something to that effect. Rousseau then changed his cane from his left hand to his right and without further words proceeded to administer a beating to Mr. Grinnell. The instrument used was a small rattan cane with an iron end and Rousseau struck Grinnell with the iron end. He struck him chiefly in the face, but one blow hit Grinnell's hand and another his shoulder. The blows were continued until the cane broke. All told, probably eight or ten blows were struck.<sup>19</sup>

As far as physical injury was concerned Grinnell was practically unharmed. His hand and shoulder were bruised so that he could not use them for several days, but beyond that his injuries were slight and he was able to attend to his duties the following day.

Grinnell made no effort whatever to resist Rousseau and when the latter had finished administering the caning Grinnell walked peacefully away to his place of residence. According to Grinnell's belief, the purpose of the attack was to get him to attack Rousseau, who then would have had a pretext for assassinating him. For that reason Grinnell made no attempt to defend himself.

As nearly as could be ascertained there were from fifteen to twenty persons upon the portico at the time of the assault, a part of whom were detained there because of a shower of rain which was falling at the time. There was no other member of the House present besides Grinnell and

<sup>19</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, p. 1.

Rousseau. Grinnell was totally unarmed and Rousseau had no weapons other than the small cane which he used in the assault.<sup>20</sup>

No friends of Grinnell were present, probably because of the suddenness and unexpectedness of the attack. On the other hand three persons were present as friends of Rousseau: Mr. Charles D. Pennybaker of Kentucky, Mr. L. G. Grigsby of Kentucky, and Mr. John S. McGrew of Ohio. Mr. Pennybaker, a very close friend of Rousseau, was present because Rousseau had intimated to him that a personal assault was possible if not probable. After Rousseau had broken the cane on Grinnell he pushed the latter up against a pillar and was seemingly about "to finish the job" with his fists, but at this point Mr. Pennybaker stepped in and succeeded in restraining him. In the hearing before the committee, Pennybaker stated that he was armed with a loaded pistol. He was then questioned as to whether or not it was customary for him to carry a gun and he said that it was not. He finally made the statement that he carried the gun that day in order to protect Rousseau in case any bystanders interfered in the controversy. He said that it was not his intention to use the pistol unless he was obliged to, but that he feared for the personal safety of Rousseau.<sup>21</sup>

The other two friends of Rousseau had no intimation as to what was about to occur. Mr. Grigsby was a personal friend of both Rousseau and Pennybaker. He was visiting with Pennybaker in the latter's rooms when the latter informed him that he must go to the capitol building. Grigsby obtained Pennybaker's permission to accompany him, and hence was present on the portico as a guest of Pennybaker.<sup>22</sup>

<sup>20</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, p. 1.

<sup>21</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, pp. 15-20.

<sup>22</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, pp. 21-24.

The third friend of Rousseau, Dr. John S. McGrew of Ohio, had been talking to Rousseau relative to a business trip to New York which they proposed to take together. McGrew had an appointment with Rousseau at the close of the session on that day and was waiting for him in the rotunda. Rousseau rushed into the rotunda, passed right by McGrew without noticing him, and passed out to the portico. McGrew noticed that he was very much excited about something and hence followed him and was present at the assault.<sup>23</sup> Both McGrew and Pennybaker were armed with pistols. It was admitted by all three of these men that in the event of any interference on the part of outside parties, they should have taken part in the contest. No interference being offered, they did not participate in the affair except to advise Mr. Rousseau to withdraw at the close.

#### THE INVESTIGATION BY THE COMMITTEE

The members of the House of Representatives were very much chagrined over the conduct of Grinnell and Rousseau, and a committee was appointed to investigate the entire affair and report back to the House. Mr. Rufus P. Spalding of Ohio, Mr. Nathaniel P. Banks of Massachusetts, Mr. John Hogan of Missouri, Mr. Henry J. Raymond of New York, and Mr. M. Russell Thayer of Pennsylvania made up this committee, which commenced its investigation on June 26th and continued for five days, making its report to the House on July 2nd.<sup>24</sup>

It was found by the committee that there was no doubt as to the purpose or cause of the assault. Rousseau on the witness stand frankly admitted that the sole cause of the attack was the words spoken by Mr. Grinnell in the House, and that he had followed Grinnell to the east portico of the

<sup>23</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, pp. 31-38.

<sup>24</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, pp. 1, 5.

capitol for the purpose of assaulting him. Furthermore, he stated on the witness stand that he called to Mr. Grinnell who was then a few paces ahead of him. Mr. Grinnell stopped and he demanded of him an apology for his conduct in the House on the previous Monday. When Grinnell refused to respond with the sought-for apology, Rousseau called Grinnell a "damned coward" and a "damned poltroon", and then began to beat him with the cane. Grinnell said: "You are not hurting me." Whereupon Rousseau replied: "I don't want to hurt you, I want to disgrace you, you damned puppy." After the cane broke, Rousseau was evidently about to "finish the job" with his fists when Pennybaker interfered. Thereupon Rousseau after calling Grinnell a "damned scoundrel" went away with Mr. Pennybaker and Mr. Grigsby.<sup>25</sup> Throughout the assault Grinnell maintained perfect self-control, and when Rousseau had finished with the caning he calmly said: "If the crowd have done with me I will leave."

In the hearing before the committee the chief persons who testified were Mr. Grinnell, Mr. Rousseau, Daniel Morris, William P. Turpin, Charles C. Pennybaker, L. B. Grigsby, Willard Saulsbury, John S. McGrew, John Boyd, and Leonard Jones. The testimony of Grinnell, Rousseau, Pennybaker, Grigsby, and McGrew has already been referred to. Morris, Turpin, Boyd, and Jones added nothing further to that which has already been given. Practically the only distinguished person present at the assault and the only member of Congress besides Grinnell and Rousseau was Senator Willard Saulsbury of Delaware. The testimony which he gave, however, did not bring out any additional facts.

It was urged on behalf of Lovell H. Rousseau that he

<sup>25</sup> See testimony before the committee.—*House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, pp. 5-39.

"had been assailed by Mr. Grinnell with epithets and aspersions to which no man could be expected or required to submit; and that as the House had failed to protect him, upon his appeal, in his privileges as a member, he felt it to be his right to vindicate himself and the people he represented."<sup>26</sup> Grinnell, on the other hand, maintained that his character had been assailed by Rousseau both upon the floor of the House and elsewhere in such a manner that he was perfectly justified in the remarks which he had made.

Nothing appeared in the hearing before the committee that indicated that Mr. Grinnell was actuated in the slightest degree by malice or personal feeling toward Mr. Rousseau. Moreover, the investigation by the committee did not reveal any other misconduct of Rousseau either as a member of the House or as an army officer. Rousseau's much disputed military record was investigated and it was found that his services had been honorable in every respect.

The committee, moreover, investigated the matter of "absolute privilege" of the members of Congress. The Constitution of the United States expressly provides that "for any speech or debate in either house they shall not be questioned in any other place."<sup>27</sup> One of the rules of the House was to the effect that personal matters should not be discussed or debated on the floor. It was very evident that both Rousseau and Grinnell had exceeded their privileges in their various debates on the Freedmen's Bureau Bill. The committee undoubtedly felt that Rousseau was entitled to some relief, but it would be an exceedingly dangerous precedent to set if they should excuse his personal assault upon Grinnell. Hence the committee after long deliberation found that both Rousseau and Grinnell were guilty of a breach of privilege.

<sup>26</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, p. 2.

<sup>27</sup> Constitution of the United States, Article I, Section 6.

## THE REPORT OF THE COMMITTEE

The committee made the following recommendations to the House on July 2, 1866:

*Resolved*, That the Hon. Lovell H. Rousseau, a representative from Kentucky, by committing an assault upon the person of the Hon. J. B. Grinnell, a representative from the State of Iowa, for words spoken in debate, has justly forfeited his privileges as a member of this House, and is hereby expelled.

*Resolved*, That the personal reflections made by Mr. Grinnell, a representative from the State of Iowa, in presence of the House, upon the character of Mr. Rousseau, a representative from the State of Kentucky, were in violation of the rules regulating debate and the privileges of its members founded thereon, and merit the disapproval of the House.

*Resolved*, That Charles D. Pennybaker of Kentucky, L. B. Grigsby of Kentucky, and John S. McGrew of Ohio, by their presence and participation in a premeditated personal assault between Hon. Mr. Rousseau, of Kentucky, and Hon. Mr. Grinnell, of Iowa, on account of words spoken in debate, in which the persons if not the lives of members of this House were imperilled, were guilty of a violation of its privileges, and they are hereby ordered to be brought to the bar of this House to answer for their contempt of its privileges.<sup>28</sup>

These were the resolutions adopted by the majority of the investigating committee, consisting of Mr. R. P. Spalding of Ohio, Mr. N. P. Banks of Massachusetts, and Mr. M. Russell Thayer of Pennsylvania. The minority, consisting of Henry J. Raymond of New York and John Hogan of Missouri, agreed that Rousseau was guilty of a breach of privilege without justification. But considering the failure of the House to protect him and the total absence of any intention to inflict great bodily injury on Grinnell they were of the opinion that expulsion from the House was too severe a punishment to inflict.<sup>29</sup> The resolution of the minority was as follows:

<sup>28</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, pp. 3, 4.

<sup>29</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, p. 4.

*Resolved*, That Hon. Lovell H. Rousseau be summoned to the bar of the House, and be there publicly reprimanded by the Speaker for the violation of the rights and privileges of the House, of which he was guilty in the personal assault committed by him on Hon. J. B. Grinnell for words spoken in debate.<sup>30</sup>

THE ACTION OF THE HOUSE

The House, after carefully deliberating over the reports of both the majority and the minority of the committee for nearly three weeks, decided to adopt the minority report. On July 21st William B. Allison in conclusion called for the execution of the order of the House. Thereupon Speaker Colfax said:

General ROUSSEAU: The House of Representatives have declared you guilty of a violation of its rights and privileges in a premeditated assault upon a member for words spoken in debate. This condemnation they have placed on their Journal and have ordered that you be publicly reprimanded by the Speaker at the bar of the House. No words of mine can add to the force of this order, in obedience to which I now pronounce upon you its reprimand.<sup>31</sup>

EFFECTS OF THE EPISODE

It is needless to say that the Grinnell-Rousseau affair created much comment throughout the Nation. The friends of Grinnell of course took his part and severely denounced Rousseau in the newspapers, while the supporters of Rousseau were equally bitter in their denunciation of Grinnell. But on the whole it may be said that the preponderance of public sentiment in the North was in favor of Josiah B. Grinnell. The people of Iowa stood behind Grinnell almost to a man, thus indicating that his ability was appreciated in his home State.

“That General Rousseau, member of Congress from Kentucky, is a first class hero is now definitely settled”, de-

<sup>30</sup> *House Reports*, 1st Session, 39th Congress, Vol. I, Report No. 90, p. 4.

<sup>31</sup> *Congressional Globe*, 1st Session, 39th Congress, p. 4017.

clared an Iowa editor. "He has claimed that distinction ever since he became a member of the House and has attempted several times to establish his claim by a lofty bearing and pompous declamation, but failing in these he has adopted the only infallible (Southern) test and has come out successful." The editor then presented the details of the assault and in conclusion said: "We trust that the House will promptly expell the blackguard and would be bully and prevent a return of this kind of Southern accomplishment to Congress."<sup>32</sup>

The *Marshall County Times* of Marshalltown, Iowa, in the issue of July 4, 1866, also emphatically took the part of Mr. Grinnell. After recounting the circumstances of the assault the editor declared:

It is believed that the committee appointed by the House to investigate the Grinnell-Rousseau affair, will recommend the expulsion of Rousseau. It is the proper course to take. If the House would preserve its own dignity and character, bullies and blackguards should be expelled. Let it be understood that none but gentlemen shall occupy such positions, and the low blackguardism and fighting propensities of members of Congress will be effectually checked.<sup>33</sup>

The attitude of the people of Grinnell, Iowa, toward the affair is especially noteworthy. A few days after the assault a public meeting was called in Grinnell for the purpose of expressing the feeling of the community on the matter. Among the resolutions adopted were the following:

*Resolved*, That Lovell H. Rousseau has conferred on Hon. J. B. Grinnell the highest compliment in his power, by his practical acknowledgment that he cannot cope with the Iowa member in debate.

*Resolved*, That we tender to Kentucky our friendly commiseration.

<sup>32</sup> *Iowa City Republican*, Vol. XVII, No. 917, June 20, 1866.

<sup>33</sup> *Marshall County Times* (Marshalltown), Vol. VIII, No. 13, July 4, 1866. For a later comment, see the same paper for May 25, 1867.

tions, that in this hour of peril to her once untarnished honor, she is represented by a man so consciously incompetent and so obviously unworthy.

*Resolved*, That it is due to the dignity of Congress, the interest of good order, and the cause of freedom and right, that the assailant of Mr. Grinnell be at once expelled from the House of Representatives in disgrace, and that any member of Congress who may attempt a similar outrage hereafter, should be promptly expelled and rendered ineligible to a seat in either House.<sup>34</sup>

The effect of this episode upon Lovell H. Rousseau was to lower him in public esteem and to brand him in the minds of many as a coward. Shortly after being publicly reprimanded by the Speaker of the House in accordance with the action taken by the House, he resigned as Representative. But this resignation by no means ended his career in public life. Some time later he was sent by President Johnson to officially receive Alaska for the United States from Russia. Then he was appointed to the command of the Department of the Gulf, with headquarters at New Orleans. He succeeded General Philip H. Sheridan and continued in this post until his death at New Orleans on January 7, 1869.<sup>35</sup>

Likewise, the incident was by no means the last event in the public life of Mr. Grinnell, although this was the last term in which he held an elective office. Unfortunately the Congressional election occurred in the fall following the assault and the nominating convention took place at Oskaloosa, Iowa, one week after the assault and more than a week before the investigating committee in the House made its report. Grinnell was a candidate for re-nomination, but was defeated by Judge Loughridge. There seems to be no doubt but that this assault, and especially the fact that no resistance had been made to Rousseau, defeated Grinnell

<sup>34</sup> *Clinton Herald*, Vol. X, No. 26, June 30, 1866.

<sup>35</sup> Appleton's *Cyclopaedia of American Biography*, Vol. III, p. 336.

at the convention. But in spite of his failure to receive the re-nomination for Congress, Mr. Grinnell remained in public life for many years. In 1868 he was special agent of the Treasury Department, and in 1884 he was appointed Commissioner of the United States Bureau of Animal Industries. Later in life he was president of the St. Louis and St. Paul Railroad, president of the State Horticultural Society, and president of the First National Bank at Marshalltown, Iowa.<sup>36</sup>

In spite of the fact, however, that the investigating committee of the House put the blame for the assault entirely upon Rousseau, after the episode Grinnell was never regarded with quite the same esteem and admiration that he received from the people of his State and the Nation at large before the assault.<sup>37</sup>

The Grinnell-Rousseau affair must be regarded as an extremely unfortunate incident. It is indeed to be regretted that two such able men and two such staunch supporters of the Union should have been allowed to conduct themselves in such a reprehensible manner on the floor of the House. Fortunately this unpleasant episode in the lives of both men has been quite largely forgotten, and Josiah B. Grinnell and Lovell H. Rousseau are remembered mainly for the services which they rendered to the Nation at a time when its future existence was very much in doubt.

PAUL R. ABRAMS

IOWA CITY, IOWA

<sup>36</sup> Appleton's *Cyclopaedia of American Biography*, Vol. III, p. 2.

<sup>37</sup> For instance in 1869 when Grinnell received some mention as a candidate for United States Senator, a newspaper correspondent declared that "the expression is very common in Iowa that Mr. Grinnell could have had from this people anything he would ask if he had given Rousseau 'as good or better than he sent'."—*Weekly Iowa State Register*, Vol. XIV, No. 42, December 1, 1869.

## A WAR TIME MILITIA COMPANY

An examination of some of the laws enacted and resolutions adopted during the extra session of the Ninth General Assembly of Iowa in 1862, and during the regular session of the Tenth General Assembly in 1864, reveals some interesting facts. A condition of affairs then existed throughout the State which affords a striking contrast to life in Iowa during times of peace. The nation was in the throes of a mighty struggle for existence in which the soldiery of Iowa played well its part; and while thousands of brave and patriotic men were at the front engaged in actual warfare, laws were enacted requiring all able bodied male citizens at home to organize themselves into militia companies for the defense and protection of the State, and for the purpose of constituting a reserve force to be called into actual service in case of necessity.

Almost at the beginning of this fratricidal warfare, which was eventually to result in the enfranchisement of the colored race, the members of the Ninth General Assembly found it necessary at the extra session in 1862 to place upon the statute books of the State "An Act to provide for the Protection of the North-Western Frontier of Iowa from Hostile Indians."<sup>1</sup> While the people of the white race were engaged in a contest among themselves which, at infinite cost of blood and treasure, was to strike the shackles from the limbs of the black man, the red man to the northwestward of the State of Iowa, true to the instincts and impulses of his nature, was ready to throw off all restraint and swarm

<sup>1</sup> *Laws of Iowa, 1862 (Extra Session)*, p. 1.

across the border from Minnesota and the Dakotas and wreak his savage fury in deeds of slaughter and rapine upon the citizens of the State of Iowa, striking down the innocent and helpless as well as the guilty and the strong.

The purpose of the law for the protection of the north-western frontier of the State perhaps cannot be better or more clearly stated than in the language of a Joint Resolution of the legislature, approved on September 9, 1862, which reads as follows:

WHEREAS, For several months past, the Indians residing along the North-Western lines of the State of Iowa, in Minnesota and Dakota, and in the country in that vicinity, have exhibited strong evidence of hostility to the border settlers, and have committed depredations upon the property of these settlers, and have finally broken out into open hostility, not only committing gross acts of plunder, but have committed the most cruel barbarities upon the defenceless citizens residing in the Southern and South-Western border of Minnesota, murdering with unparalleled cruelty a large number of these citizens and their families, in the immediate vicinity of our State, burning their houses and destroying their property; and whereas, it is believed from the general uprising of these Indians, and the great extent of their depredations and from various circumstances relating thereto that they are invited to these acts of cruelty, by evil disposed whites from our enemies, and that a general Indian War is impending, and whereas, the people along the borders of Iowa and Minnesota are deserting their homes and fleeing to places of safety in the interior of the State and entirely abandoning their homes and property for places of safety, therefore,

*Resolved by the General Assembly of the State of Iowa, That the Secretary of War, be and he is hereby urgently requested to send a sufficient force of troops under some efficient officer to thoroughly chastise these Indians who have committed the aforesaid acts of War and to subdue or drive beyond the border such hostile Indians, at the earliest possible moment.*

*Resolved, That the Secretary of State be and he is hereby requested to forward to the Secretary of War a copy of the foregoing resolutions.*<sup>2</sup>

<sup>2</sup> *Laws of Iowa, 1862 (Extra Session), p. 51.*

Nor does this appear to have been the extent of the threatened invasion of Iowa. Evidently there was also danger to be apprehended along the southern border of the State, for two days later, on September 11th, the General Assembly passed a bill entitled "An Act to provide for the better protection of the Southern Border of this State."

Section one of this act made the following provision:

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa*, That the Governor of the State of Iowa be, and he is hereby authorized and required to raise a volunteer force in the State of Iowa, from the County of Wapello and each of the Counties in the Southern tier of Counties bordering on the State of Missouri, not less than one Company of mounted men, to be mustered into service by a person, or persons, appointed by the Governor, at such time and places as he may designate, for the protection of the Southern border.<sup>3</sup>

In addition to the foregoing act, the General Assembly on the same day enacted a law entitled, "An Act for the organization and discipline of the Militia, and to amend an Act entitled 'An Act to Amend the Militia Law,' (being Chapter 175 of the laws of the Ninth General Assembly)". Section one of this act provided "That all able bodied white male citizens of this State between the ages of eighteen and forty-five years, and not exempt by the laws of the United States . . . shall be subject to military duty." The law also stipulated the manner of organizing and disciplining the militia, named the officers to be elected, prescribed the method of determining who were liable to military duty, and provided for the return of the militia rolls to the Adjutant General.<sup>4</sup>

This law remained in force until the regular session of the Tenth General Assembly which convened in January, 1864, when it was repealed by an act approved on March 26th.<sup>5</sup>

<sup>3</sup> *Laws of Iowa*, 1862 (Extra Session), p. 14.

<sup>4</sup> *Laws of Iowa*, 1862 (Extra Session), pp. 42-46.

<sup>5</sup> *Laws of Iowa*, 1864, pp. 90-95.

And singular though it may seem, the law relating to the protection of the southern border of the State was also repealed.<sup>6</sup> Probably the reason for repealing the latter law may be found in the fact that the new law was designed to be much more effective and far-reaching than any previous law upon the subject, and was calculated to effect a complete military organization throughout the entire State. The law of 1864 provided that no company should be composed of less than forty men, whereas under the previous law it was provided that no company should consist of less than eighty-three nor more than one hundred and one privates.<sup>7</sup> It is therefore apparent that by allowing a smaller number of men to each company, the task of organizing companies would be greatly facilitated, and the State would thereby gain a greater and more efficient number of military companies.

The law enacted by the Tenth General Assembly was not repealed until 1878,<sup>8</sup> so that the militia companies organized under the provisions of this act constituted the military force of the State long after the great drama of the war between the States had been brought to a close.

It may be noted in this connection also that by a joint resolution of the Tenth General Assembly discharged Union soldiers who had been disabled by wounds or disease in the service of their country were recommended for preference in all positions within the gift of the Federal Government.<sup>9</sup> This resolution no doubt furnished the basis of our present soldier's preference law.<sup>10</sup>

It was under and by virtue of the law passed in 1864 by

<sup>6</sup> *Laws of Iowa*, 1864, p. 40.

<sup>7</sup> See *Laws of Iowa*, 1862 (Extra Session), p. 43.

<sup>8</sup> *Laws of Iowa*, 1878, p. 108.

<sup>9</sup> *Laws of Iowa*, 1864, p. 178.

<sup>10</sup> See *Supplement to the Code of Iowa*, 1907, pp. 207, 208.

the Tenth General Assembly that numerous companies of militia were organized throughout the State, and among them was the First Independent Company of Adams Township in Wapello County. When these companies were organized the war between the States was still raging with unabated fury and the end was not yet in sight. A report of the organization of the First Independent Company of Adams Township, Wapello County, as transmitted to the Adjutant General, reads as follows:

At a meeting of the citizens of Adams Township, held at Draper's Mill in the County of Wapello, to form a military Company under Chapter 84, Laws of 10th General Assembly of the State of Iowa, the following was the result of the election for Commissioned officers of the Company:

Captain, Daniel Easley, Jr.

1st Lieut., Benjamin Bryant

2nd Lieut., Isaac H. Hornbaker

Name of Company adopted by meeting,— 1st Independent Co., of Adams Township.

Dated August 19th, 1864.

J. L. Turner, President

Daniel Commons, Secretary.

The commission issued to Benjamin Bryant as First Lieutenant of this Company under the hand of Governor William M. Stone, countersigned by N. B. Baker, Adjutant General, and James Wright, Secretary of State, is in the possession of the writer and is in a fair state of preservation, except that it is now in two parts. While the commission is dated October 19th, 1864, it specifies that the officer named therein was to take rank from the 19th day of August, the date on which the organization of the company was perfected.

Benjamin Bryant, to whom the commission as First Lieutenant was issued, had already seen service at the front. He had enlisted on August 9th, 1862, at Drakesville,

Iowa, being assigned to Company B, Thirtieth Iowa Volunteer Infantry and mustered into service at Keokuk, from whence he was transferred to Vicksburg, Mississippi. On September 1, 1863, after having been in the army a little more than a year, he was transferred to the invalid corps at Jefferson Barracks, and was discharged from the service on account of disability in January, 1864, although he was not formally mustered out until the close of the war.<sup>11</sup>

Residing in a community composed largely of southern sympathizers, Benjamin Bryant had been one of the most active and patriotic of Unionists, assisting the cause with voice and influence, and with service on the field of battle. Returning home after being discharged from the active service, his experience and patriotism were recognized in the community by his election as First Lieutenant of the First Independent Company of Adams Township. On account of physical disability contracted in the army he would doubtless have been exempt from further military duty had he chosen to avail himself of the exemption.<sup>12</sup> Notwithstanding this fact he believed in a vigorous prosecution of the war, and was not unwilling to render such service as he could, if not on the field of action, at least in the less arduous military duties at home.

It would perhaps serve no useful purpose to set forth herein a copy of Lieutenant Bryant's commission, yet the oath attached thereto is not without interest. Following is the oath taken by him and by the other commissioned officers of the Company:

I, Benjamin Bryant, duly elected as 1st Lieutenant of Company "1st Independent Co. of Adams Township" ————— regiment,

<sup>11</sup> *Roster of Iowa Soldiers*, Vol. III, p. 1492.

<sup>12</sup> Two years later the General Assembly passed an act definitely providing that all honorably discharged soldiers who had served for a period of two years or more should be exempt from further military duty.— *Laws of Iowa*, 1866, p. 132.

Iowa State Militia, do solemnly swear that I will support the Constitution of the United States, and of this State, and bear true and faithful allegiance to the same; that I will promptly obey all orders coming to me from the Governor of this State, and in every respect faithfully discharge the duties of my said office according to law, and obey the orders and commands of my superior officers to the best of my ability; and I do further swear that I do not belong to any organization, either secret or otherwise, which has for its object opposition to the present war against the States in rebellion, or opposition to the Federal Administration in its efforts to prosecute said war; that I have no sympathy with those in rebellion and that my desire is to see said war prosecuted with vigor until the rebellion is crushed and an honorable peace restored; and to this end I will faithfully exert my influence and endeavor to sustain those in power. To all this without reservation I fully and cheerfully agree.

(Signed) BENJAMIN BRYANT

Subscribed and sworn to by the said Benjamin Bryant on the 5th day of Sept. 1864.

(Signed) E. H. STILES,

Notary Public of Wapello County.

The Muster roll of this war time militia company, which is on file in the office of the Adjutant General, reveals the names of loyal citizens most of whom, for various reasons, were prevented from participating in the stern realities of war, but who did not hesitate to lend their aid and moral support to the Union cause by entering military service at home, thus forming a sort of reserve force of the State, prepared to act in case of emergency or necessity. Moreover, the roll is valuable for another reason. It presents the names of men, nearly all of whom were pioneers of Adams Township, and of the State of Iowa. Few, if any of them, are now living. Lieutenant Benjamin Bryant died at his home in Bloomfield, Iowa, on February 15, 1902, and nearly all the other members of the Company have passed away before or since that date.

An examination of this muster roll reveals some interest-

# 410 IOWA JOURNAL OF HISTORY AND POLITICS

## MUSTER ROLL OF THE FIRST INDEPENDENT COMPANY OF MILITIA OF ADAMS TOWNSHIP, ORGANIZED IN THE COUNTY OF WAPELLO, UNDER CHAPTER 84, LAWS OF THE REGULAR SESSION OF THE TENTH GENERAL ASSEMBLY OF THE STATE OF IOWA

No	Name	Rank	Age	Residence			Nativity
				Post Office	Township		
1	Daniel Easley, Jr.	Captain	39	Amador	Adams		Kentucky
2	John B. Lewis	1st Lieut.	36	"	"		"
3	Isaac H. Hornbaker	2nd Lieut.	50	"	Urbana Tp., Monroe Co.		"
1	Daniel Commons	1st Sergt.	32	"	Adams		Ohio
2	John B. Lewis	2nd "	37	"	"		"
3	Page White	3rd "	41	"	"		Kentucky
4	John H. Bevins	4th "	25	"	"		Maryland
1	Levi West	1st Corp.	36	"	"		New Jersey
2	Isaac J. Roberts	2nd "	28	"	"		Ohio
3	John L. Lewis	3rd "	18	"	"		Indiana
4	Fletcher Blake	4th "	21	"	"		Ohio
1	Erastus J. Turner	Musician	18	"	"		Penna
2	William Siberel	"	18	"	"		Ohio
1	Allensworth, William	Private	18	"	"		Virginia
2	Abernathoe, John	"	18	"	Urbana Tp., Monroe Co.		Indiana
3	Bellows, William	"	43	"	Adams		New Jersey
4	Boren, L. D.	"	44	"	Davis Co.		Illinois
5	Boren, Wm. A.	"	19	"	" "		"
6	Cornish, William	"	34	"	Adams		Kentucky
7	Commons, Robert	"	33	"	"		Ohio
8	Dalrymple, T.	"	33	"	"		"
9	Dalton, William	"	33	"	"		"
10	Donehue, John D.	"	....	"	"		Indiana
11	Garrison, William	"	44	"	"		Tenn.
12	Hendrickson, Elija D.	"	24	"	"		Indiana
13	La(y)ne, Franklin M.	"	25	"	"		"
14	Lewis, Willard S.	"	44	"	"		Ohio
15	Marshal, William	"	44	"	"		"
16	Miller, Alvin	"	27	"	"		"
17	Orr, A.	"	32	"	"		"
18	Peck, Evan	"	34	"	"		"
19	Poland, John	"	31	"	"		Indiana
20	Randolph, Joseph F.	"	19	"	"		"
21	Rater, Sidney F.	"	26	"	Urbana Tp., Monroe Co.		"
22	Siberel, David	"	44	"	Adams		Ohio
23	Stocker, Alvin	"	29	"	Urbana Tp., Monroe Co.		"
24	Simmons, Nathan	"	30	"	Adams		
25	Wood, James M.	"	30	"	"		Indiana
26	Wood, Zepheniah	"	24	"	"		"
27	Whitehare, Frederick	"	38	"	"		Prussia
28	Wellman, Michael	"	35	"	"		Kentucky
29	Wilson, Joseph R.	"	23	"	"		
30	White, A.	"	18	"	"		Kentucky

ing facts. It will be seen that Kentucky contributed the three commissioned officers of the Company, Easley, Bryant, and Hornbaker; one non-commissioned officer, Page White, and in addition to these officers, furnished three privates. Thus Kentucky's total quota amounted to seven men. Ohio contributed fifteen men, Indiana ten, Illinois two, New Jersey two, Maryland one, Pennsylvania one, Virginia one, Tennessee one, while one was a native of Prussia, and the nativity of two others is not given.

It does not appear that the First Independent Company of Adams Township ever engaged in any notable military exploits, or that it ever performed any military service other than that of meeting and drilling at stated intervals as required by law.<sup>18</sup> An event occurred in October, 1864, however, which aroused the company to unusual activity and might have led to active operations had not fate decreed otherwise. This event, which transpired in the adjoining county of Davis, produced widespread alarm and consternation throughout that county and the adjacent counties.

On the 12th of October a thoroughly organized band of guerillas consisting of perhaps fifteen or twenty men penetrated Davis County and ruthlessly murdered a number of citizens, besides committing other depredations. The suddenness of the appearance of this armed force within the borders of Iowa, and the deadly character of its work, as above indicated, occasioned great alarm throughout the vicinity of the raid. The report of the invasion spread like wildfire and it was soon rumored that General Price's army, then operating in Missouri, had invaded the State. On the night of October 12th, Captain Easley and Lieutenant Bryant of the First Independent Company of Adams Township

<sup>18</sup> The writer's eldest brother, Francis A. Bryant, although then but little past thirteen years of age, but being quite tall for one of his years, participated in the drills of the company although his extreme youth excluded him from becoming an actual member.

made a sort of Paul Revere ride throughout the township, notifying the men of their command to meet at the usual place of rendezvous on the ensuing morning to assist in repelling the supposed invasion. They soon found that their services were not needed, however, as the invaders departed from the State as precipitately as they had entered it.

This guerrilla band, presumably under the command of Quantrell, entered the State near the Southeast corner of Davis County and made their way thence across the southern border of the county to a point near the Southwest corner. They then retreated into Missouri from whence they had come, leaving a trail marked with blood.

Near the point of their entrance into Davis County the guerrillas stopped at the home of Wm. Power whose son, W. W. Power, then a youth fifteen or sixteen years of age, they ordered to mount a horse and accompany them; but after traveling some distance they released him.<sup>14</sup> Why they compelled the young man to accompany them, or why they afterward released him, can never be known.

Passing on, the invaders arrived in the vicinity of Springville, where they met Thomas Hardy, a respected citizen, driving along the public highway in a wagon drawn by a very valuable team of horses. The leader of the guerrilla band, drawing a revolver, ordered Mr. Hardy to get out of the wagon, and stated that the guerrillas desired the team of horses. Mr. Hardy stood up in the wagon and refused to surrender the team, saying that he wanted it himself. The leader of the band again ordered him to dismount from the wagon and give up the horses, which order he again refused to obey. Thereupon the guerrilla immediately shot and mortally wounded Hardy, who fell from the wagon and expired. Taking possession of the team, the guerrillas then continued their march.

<sup>14</sup> Mr. W. W. Power now resides at Bloomfield, Iowa.

At Springville, near the southwest corner of the county, they came to the home of Captain Philip H. Bence of Company F, Thirtieth Iowa Volunteer Infantry, who was then at home on a furlough. They ordered Captain Bence to come out of the house, which order he obeyed. Probably divining the character of the individuals confronting him, he requested them not to kill him in the presence of his wife and two little boys. They ordered him to mount a horse, and continuing their march, they arrived at the home of Mr. David Sanderson, whom they also forced to accompany them, and ordered him to mount the same horse upon which Captain Bence was riding.<sup>15</sup>

The guerrillas then proceeded along the public highway in a southerly direction, their prisoners riding in advance as they had been ordered to do. While they were ascending a small hill some two or three miles south of Springville, Captain Bence in a low voice proposed to Mr. Sanderson that they should both quickly dismount from the horse, and endeavor to make their escape through the timber and underbrush extending from the roadside over the hill. Mr. Sanderson, believing that such a course would be fraught with grave danger and would probably result in the death of both, whereas by awaiting developments they might effect an escape by some other less hazardous method, declined to accede to Captain Bence's proposal. They had traveled but a short distance further when the leader of the guerrillas rode up close behind the horse on which Captain Bence and Mr. Sanderson were mounted, drew a revolver from its holster, and without a word of warning, pointed the weapon directly over Mr. Sanderson's shoulder and

<sup>15</sup> About ten years ago Mr. Sanderson gave the writer a very graphic account of the conduct of the guerrillas from this point until he parted company with them. A full report of this invasion was also transmitted to the office of the Adjutant General, soon after the event occurred.— See *Report of the Adjutant General* (Iowa), 1864-1865, pp. 1417-1428.

pulled the trigger. The ball from the revolver penetrated the back of Captain Bence's head and he fell to the ground.

The suddenness of the act and the shock caused by the report of the gun also caused Mr. Sanderson to fall from the horse, and his first impression was that he himself had been shot. This he soon discovered was erroneous and he rose to his feet. The leader of the guerrilla band then dismounted from his horse and approached Captain Bence where he lay writhing in the dust. After Bence had fallen to the ground, he raised himself on his right elbow and turned partly over, in an attempt to rise. The next moment the guerrilla leader placed the muzzle of his revolver close to the top of Captain Bence's head and again pulled the trigger. The ball crashed into the brain of the wounded man, the struggling immediately ceased, and Captain Bence lay dead before his half bewildered companion.

The guerrilla then turned to Mr. Sanderson, and coldly ordered him to face about. Fully believing that he himself was next to be the victim of the assassin's bullet, Mr. Sanderson with palpitating heart faced about. To his great surprise, he was ordered to depart immediately, "and not look back;" an order which he obeyed literally and with great alacrity. The guerrilla band then made its way as rapidly as possible out of Iowa and back into Missouri.

The death of Captain Bence, who was a gallant and efficient officer, was greatly deplored by all who knew him. He had enlisted on the 13th day of August, 1862, was promoted to First Lieutenant on March 29, 1863, and to Captain on April 3, 1864, was slightly wounded at Atlanta, Georgia, on July 28, 1864, and was killed by guerrillas on October 12, 1864.<sup>16</sup>

THOMAS JULIAN BRYANT

GRISWOLD, IOWA

<sup>16</sup> *Roster of Iowa Soldiers*, Vol. III, p. 1496.

## EMIGRATION FROM IOWA TO OREGON IN 1843

In spite of the great distance which separates the two regions there are many points of contact in the history of Iowa and the history of the Oregon country — the area now included in the States of Washington and Oregon. Especially interesting is the fact that a number of the men and women who helped to found the earliest communities within the present State of Iowa at an early day joined emigrant bands and toiled over the long trail to Oregon, thus becoming pioneers of two Commonwealths. Scarcely had the eastern border of Iowa been settled before many of the settlers who had so lately crossed the Mississippi began to look to the far West, to the much-discussed Oregon country.

There had been tides of emigration to Oregon from the Mississippi Valley and from the eastern States in 1841 and 1842, but the movement seems to have attracted special interest in Iowa in the spring of 1843. Emigrant associations were formed, plans were made, routes were investigated, and finally a number of settlers from different parts of the Territory of Iowa departed for the Oregon country. In some cases it may have been pure love of adventure or the desire of the typical American frontiersman to escape the restraints of advancing civilization which induced these men to brave the dangers and hardships of the long overland journey. The hope of bettering their financial condition and of gaining better homes may have attracted others to the new Northwest. But aside from these personal motives there seems to have been a patriotic desire on the part of many to aid in the movement to settle the Oregon country and thus establish forever the claim of the United States to that rich and resourceful region.

Below are printed accounts of the organization of two of the so-called Oregon Emigrant Associations, together with instructions to prospective emigrants, copied verbatim from newspapers of the period. These accounts illustrate the earnestness of the emigrants and the thoroughness with which they made preparations for the overland journey.

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#### OREGON MEETING

[The following account of a meeting in Johnson County is reprinted literally from the *Iowa Capitol Reporter* (Iowa City), Vol. II, No. 14, March 11, 1843. — EDITOR.]

At a meeting held on the 3d of March, 1843, of the citizens of Clear Creek precinct, Johnson County, at the house of Mr. A. Gilliland, for the purpose of taking into consideration the propriety of organizing a company to emigrate to Oregon, and devise rules by which said company shall be governed. The meeting was organized by calling John Conn, Esq., to the chair, and choosing Bryan Dennis Secretary. Mr. Gilliland then explained the object of the meeting and presented a series of resolutions for the consideration of the meeting, which underwent several amendments and were adopted as a guide for the formation of a constitution.

Resolved, That the company shall draft and adopt a constitution for their government which shall provide for electing the following officers and defining their duties, viz: one President, two Vice Presidents, four Trustees, one Recording Secretary, and one Corresponding Secretary, who shall be Treasurer ex-officio.

Resolved, That it shall be the duty of the Trustees to inquire into the character of all applicants who wish to join the company, and reject all intemperate and immoral characters. They shall also open books to receive subscriptions of stock, consisting of shares of fifty dollars each to be paid

in cash materials or labor, as will best suit the subscribers for the purpose of building a grist and saw mill for the company, and also a schooner or sloop, if funds sufficient can be raised.

Resolved, That as soon as the company shall number twenty male members between the ages of eighteen and forty-five, they shall hold an election and elect one Captain and five subordinate officers, whose duty it shall be to drill and command the company. After the above officers are elected, the company shall meet once per month for the purpose of drilling said company.

Resolved, That before the company commences their march, they shall elect a council of twelve persons who shall assemble in council with the officers of the company, who shall deliberate on and decide all matters pertaining to the company during their march.

Resolved, That there shall be hunting parties chosen who shall hunt for the company alternately while on their march.

Resolved, That each family and single person shall furnish a sufficient quantity of provisions and means of conveyance for the same and themselves while on their march.

Resolved, That the male members of the company between the ages of eighteen and forty-five shall be disciplined, armed and equipt to act on the defensive if necessary.

Resolved, That a committee of seven be appointed by the meeting to draft a constitution and report at the next meeting.

Resolved, That the following persons shall constitute said committee: A. Gilliland, John Conn, Bryan Dennis, G. N. Headley, G. L. Frost, David Switzer, Asa Caukin [Calkin].

Resolved, That the proceedings of this meeting be signed by the Chairman and Secretary, and published in both of the newspapers of Iowa City.

On motion, the meeting adjourned until the 18th instant, to meet at the house of Ja[r]vis H. Frost at 12 o'clock, M.

JOHN CONN, Ch'n.

BRYAN DENNIS, Sec.

### OREGON EMIGRATION MEETING

[The proceedings of the adjourned meeting above provided for are reprinted literally from the *Iowa Standard* (Iowa City), Vol. III, No. 16, March 23, 1843.—EDITOR.]

A meeting of the citizens of Clear Creek, favorable to the settlement of Oregon Territory, was held at the house of JARVIS H. FROST, on Saturday, the 18th inst. The meeting was organized by the election of the customary officers, when A. CALKINS, Esq., briefly stated the object of the meeting—it being called for the purpose of hearing and considering the report of a committee appointed at a previous meeting, to draft a Constitution and By-laws, for the formation, regulation, and government of an Oregon Emigration society.

Mr. Calkin from the committee appointed for that purpose, reported the following:—

#### CONSTITUTION OF THE OREGON EMIGRATION SOCIETY OF IOWA TERRITORY, AT IOWA CITY.

Whereas a number of the citizens of Iowa Territory, have it in contemplation to remove to, and settle in the Territory of Oregon, west of the Rocky Mountains—and whereas it is desirable and necessary, in order to secure union and concert of action, insure tranquility, and promote the general welfare, that there should be some fixed and permanent rules for the government of the Society, during the preparation for said removal, and also during its march. We do therefore ordain and establish the following Constitution, or form of government, and do mutually agree with each other, to abide by and support the same.

## ARTICLE I.

1. The Legislative authority of this society shall be vested in four Trustees, and twelve Councilmen, to be elected by the male members of this society, entitled to a vote for civil officers under this Constitution.

2. The Trustees shall be elected on the eighteenth day of March, eighteen hundred and forty-three, at an election to be held for that purpose, at the house of Jarvis H. Frost, (provided there shall be fifteen members present who shall be entitled to a vote,) who shall hold their office until the first Monday of May, A. D. 1843, and until others are chosen in their place.

3. The Trustees and Councilmen shall be elected annually, on the first Monday in May, and shall hold their offices until others are elected in their place. The first election of civil officers shall be held at Iowa City, on the first Monday of May, A. D. 1843. Provided there shall be at that time forty-five members who are entitled to a vote.

4. No person shall be eligible to the office of Trustee or Councilman, who shall not at the time of his election have attained the age of twenty-five years, and be a member of this society.

5. It shall be the duty of the Trustees and Councilmen to make, ordain, and publish all such by-laws, rules, and regulations, for the government of the society, as in their opinion, or the opinion of a majority of the whole number, would be expedient and subserve the best interest of, and promote the general welfare of the society.

6. They shall keep a journal of all their proceedings, and the yeas and nays of the members, on any question, shall at the desire of any two members be entered on the journals. The journals shall at all times be open to the examination of any member of the society.

7. Any member of the Trustees and Council, shall have

the liberty to dissent from and protest against any act or resolution which he may think injurious to the general welfare of the society, or any individual, and have the reasons of such dissent entered on the journal.

8. They shall have power to provide for the incidental expenses of the society, by levying a tax, or establishing an initiation fee — to audit all accounts, and make appropriation for the same; and no payment shall be made by the treasurer, except upon the appropriation of the Trustees and Council, and order of the President.

9. They shall also, when on the march, meet in council, and consult with the military officers of the company, and a majority of the whole shall determine the course to be pursued in any case of emergency.

10. They shall have power to appoint hunting parties from time to time, while on the march, (whose duty it shall be to hunt and procure game, and provisions for the general use of the society,) and to determine their duties and term of service.

11. They shall also have power to impeach, try, and for good cause to remove from office the President, or any other civil officer who is elected by the society.

12. They shall also have a general supervision over, and regulation of the military, and have appellate jurisdiction of any decision of the military officers of the company.

13. They shall also have power to hear, try, and determine all complaints against any member of the society, for dishonesty, immoral or improper conduct, and to dismiss any member from the society who shall wilfully disobey or violate any of the provisions of this constitution or the by-laws of this society, or be guilty of any immoral, dishonest or improper conduct, or for other good cause.

14. They shall use their influence to encourage the emigration with this society, of ministers of the gospel, teachers, artisans, and physicians.

15. It shall be the duty of the Trustees especially to examine all applicants for admission into the society, and shall make report of the result of such examination at each regular meeting of the society, and no person shall be finally admitted or rejected except by the vote of the society, and no person of intemperate habits, dishonest, or immoral character shall be entitled to admission into this society.

16. The said Trustees shall also open books for the subscription of stock, as provided in the second resolution adopted at a meeting of the citizens, held on the 3d day of March 1843, at the house of Archibald Gilleland, and until otherwise provided by law, they shall be governed in their duties by said resolution.

#### ARTICLE II.

1. The executive power shall be vested in one President and two Vice Presidents, who shall be chosen annually on the first Monday in May, by the male members of this society, entitled to vote for civil officers under this Constitution, and shall hold their offices for one year, and until others are chosen in their places.

2. It shall be the duty of the President to preside at all public meetings of the society, and at all meetings of the Trustees and Council, and also, when on the march, at all meetings of the Trustees and Council, with the military officers of the company. He shall not however, be entitled to a vote upon any question before the meeting, except in case of a tie, when he shall give the casting vote.

3. The President shall have power to nominate, and by and with the consent of the Trustees and Council, to appoint one Recording Secretary, who shall be ex-officio clerk of the board of Trustees and Council, and one Corresponding Secretary, who shall be Treasurer ex-officio.

4. It shall be the duty of the first Vice President to pre-

side in the absence of the President, and in case of a vacancy of the office of President, he shall fill the office and perform all the duties of the President, until the vacancy shall be filled.

5. It shall be the duty of the second Vice President, to preside in the absence of both the President and first Vice President.

6. No person shall be eligible to the office of President, or Vice President, who shall not have attained the age of thirty years, and be a member of this society at the time of his election.

#### ARTICLE III.

1. The military authority of this society shall be vested in one Captain, two Lieutenants, and three Sergeants, who shall be elected by the male members of this society, between the ages of forty-five and seventeen years, whose duties it shall be to drill and exercise the company in military tactics, and who shall be elected in the manner provided by law.

2. Every able bodied male member of this society, between the ages of forty-five and seventeen years, shall be disciplined, and shall arm and equip themselves, and be liable to do military duty, under the rules and regulations provided by law, except the civil officers while on the march.

#### ARTICLE IV.

1. Every male member of this society over the age of seventeen years, shall be entitled to vote for the election of the said civil officers of this society.

2. In case of a vacancy from any cause whatever, in any of the civil offices, there shall be an election held to fill the vacancy, at such time and place, as shall be designated by the President, who shall give twenty days previous public notice of the time and place of holding such election, and of the office to be filled, by publication in one or more of the public newspapers printed in Iowa City.

3. In case of vacancy in the office of, or in the absence of the President, the first Vice President shall give the requisite notices for such election; and in case of the absence of both the President and first Vice President, then the said notices shall be given by the second Vice President.

ARTICLE V.

1. No person shall be entitled to become a member of this society who shall not have attained the age of twenty-one years, unless he shall at the time of making his application present to the Trustees the written consent of his parents or guardian.

2. No person of *intemperate or immoral* habits or principles, shall under any circumstances whatever, be admitted as members of this society.

3. No Black or Mulatto person shall, in any case or any circumstances whatever, be admitted into this society, or permitted to emigrate with it.

ARTICLE VI.

The President, Vice Presidents, Trustees, Councilmen, and other civil officers, shall be exempt from performing actual military service on the march. They shall however, fully arm and equip themselves, and when on the march, in any case of emergency shall remain with and protect the families and baggage.

ARTICLE VII.

This Constitution may be altered or amended at any time, twenty days previous notice being given by the President, by publication in one or more of the public newspapers printed in Iowa City, of the time and place of meeting of the members of this society, for that purpose: *Provided*, That two thirds of all the members present, shall concur therein.

The above title, preamble, constitution, and by-laws, were

unanimously adopted, and a large number of the citizens present subscribed their names to the same.

On motion: Resolved, That the Society now proceed to the election of four Trustees.

Whereupon, A. Calkin, David Switzer, Israel L. Clark and J. L. Frost, were unanimously elected.

Resolved, That A. Calkin, Esq., be requested to deliver a public address before the society, at its next meeting.

Resolved, That the proceedings of this meeting, be published in the newspapers in Iowa City.

Resolved, That the meeting adjourn to meet in Iowa City, on the first Monday in May next.

#### OREGON MEETING AT BLOOMINGTON

[The following account of a meeting at Bloomington (now Muscatine) is reprinted literally from the *Iowa Standard* (Iowa City), Vol. III, No. 17, March 30, 1843.—EDITOR.]

At a public meeting held at the School house in Bloomington, on Saturday, 19th inst. for the purpose of taking into consideration the propriety of organizing a company to emigrate to Oregon Territory, the Rev. Geo. M. Hinkle, of Louisa county, was called to the Chair, and Wm. F. Smith appointed Secretary. The chairman having explained the object of the meeting, Mr. Jno. C. Irwin, chairman of the committee appointed for that purpose at a previous meeting, made the following Report:

Your committee who were appointed to draft a report to be made to this meeting, beg leave to submit the following, to wit: that from the information they have obtained from various sources, they believe the Oregon Territory to be far superior in many respects, to any other portion of the United States—they believe it to be superior in climate, in health, in water privileges, in timber, in convenience to market and in many other respects; they believe it to be

well adapted to agriculture and stock raising, also holding out great inducements to mechanics of the various branches; They would therefore recommend to every person possessing the enterprise and patriotic spirit of the true American citizen to emigrate to Oregon Territory at as early a day as possible, and thereby secure to themselves, a permanent and happy home, and to their country, one of the fairest portions of her domain. In order to bring this subject more fairly before this meeting, your committee beg leave to submit the following resolutions for consideration and adoption.

Resolved, That the company here forming, start from this place (Bloomington,) on the 10th day of May next, on their journey to Oregon.

Resolved, That the route taken by the company shall be from here to Iowa City, from thence to Council Bluffs, and from thence to the most suitable point on the road from Independence to Oregon, from thence by way of the Independence road to Oregon.

Resolved, That the company leave or pass through Iowa City on the 12th day of May next, and invite other companies to join, &c.

Resolved, That each and every individual as an outfit, provide himself with 100 lbs. flour, 30 lbs. bacon, 1 peck salt, 3 lbs. powder in horns or canteens, 12 lbs. lead or shot, and one good tent cloth to every six persons. Every man well armed and equipped with gun, tomahawk, knife, &c.

Resolved, That all persons taking teams be advised to take oxen or mules, also that [every] single man provide himself with a mule or poney.

Resolved, That we now appoint a corresponding secretary, whose name shall be made public, whose duty it shall be to correspond with individuals in this county and with companies at a distance, receive and communicate all the information that he may deem expedient.

Resolved, That the members of the Association meet on the last Saturday in April next, for the purpose of a more complete organization.

On motion of Mr. Purcell,

Resolved, That the resolutions just offered be taken up and read separately, which was agreed to, from the first to the seventh article were voted for unanimously, with the request that those who wished to join the company, would particularly look to the 4th and 5th resolutions.

On motion of Mr. Irwin, adjourned till 2 o'clock.

TWO O'CLOCK, P. M.

Pursuant to adjournment, the meeting met, and being called to order, proceeded to the regular business of the day, Rev. Mr. Fisher, Gen. Clark, Rev. G. M. Hinkle, Judge Williams, Stephen Whicher, Esq. and J. B. Barker, Esq. addressed the meeting with very eloquent and appropriate addresses in behalf of those persons who wish to emigrate to Oregon.

On motion of Mr. Irwin, Gen. Clark was requested to act as corresponding secretary for the company until its final organization and departure for Oregon. Also, that committee of three be appointed to act in conjunction with the corresponding secretary in the transaction of any business for the advancement of the interests of the company. Jno. W. Humphreys, Barton Lee, and Tho's Gartland, were appointed said committee.

On motion, Resolved, That the ladies, and all others friendly to the settlement of Oregon, be respectfully invited to attend and that the Rev. Mr. Hinkle and others be invited to address the assembly.

On motion, Resolved, That the proceedings of this meeting be signed by the Chairman and Secretary, and published in the Bloomington Herald.

On motion of the Rev. Mr. Fisher, the meeting adjourned till Friday 31st inst.

G. M. HINKLE, Pre't.

W. F. SMITH, Sec'y.

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#### ADVICE TO PROSPECTIVE EMIGRANTS TO OREGON

[The following communication is reprinted literally from the *Iowa Capitol Reporter* (Iowa City), Vol. II, No. 16, March 25, 1843.—EDITOR.]

There seems to be at this time a strong inclination on the part of many of our citizens to emigrate to the Territory of Oregon. It therefore seems to me that a plan of operations should be laid out by some person, and I have been anxiously waiting for full a twelve-month, in the expectation that some individual would perform the task, but having been disappointed in that expectation, I feel it my interest and duty to lay before the public my imperfect plan in hopes that some one will thereby be induced to offer amendments until the plan of operations shall be perfected.

I have made every inquiry of those who have visited that region of country, and have read all perhaps, that has been written, of the character of the country, and have come to the conclusion that the distance from Burlington to the Council Bluffs is 350 miles — from the Bluffs west, on the north side of Big Platt river, by way of the Pawnee villages, to the foot of the Rocky Mountains at the old pass, where Captain Bonneville passed with his loaded wagons, is 500 miles, and no stream to cross except the Loupe fork of Platt. The pass to which I allude is in about latitude 41 deg. 30 min. north, from thence take a west course, or nearly so, to the Wallamet river; the distance is about 500 miles, making in all about 1300 or 1400 miles travel. By an inspection of the maps you will discover that the whole route will vary but little from a direct line.

My plan for outfit, &c. is as follows:— With oxen and mules you will travel with a caravan of say 100 persons, 15

miles per day, which, if you lose no time, you will accomplish the journey in 100 days, but make reasonable allowance for accidents and delay, and say 150 days.

#### FOR THE OUTFIT AND ORGANIZATION

100 men should be armed and equipped with a good rifle gun of large bore, carrying not less than 60 bullets to the pound — 4 pounds of powder, 12 of lead — (flint locks are to be preferred,) caps and flints in proportion — and good knife and a small tomahawk. Those who go with a view to hunting and trapping ought to have along half a dozen traps suitable for catching beaver and otter. Percussion guns should have with them a spare tube in case of accident of one bursting; also, canteens. As to provisions necessary for the journey, say 150 pounds of side bacon, 1 barrel of flour, a half bushel of beans, 10 pounds of rice, 20 pounds of coffee, 20 pounds of sugar, one year's stock of coarse and durable cloth, 2 blankets, and to every five men a tent the same size and form of the infantry tents in the regular army; they should be made of cotton drilling or dark cloth. To every five men there should be a wagon and team sufficient to transport two thousand pounds, hauled by three or four yoke of oxen; they should be shod and spare shoes and nails taken along, and a water keg to contain at least ten gallons to each wagon; each man should have the necessary implements of husbandry to go right to work, and each mechanic should take his tools with him; also in addition, each man ought to have a good poney or a mule to ride, (if he is able,) & that should be well equiped for packing and riding, a Spanish saddle and a picket line to tie your horse when feeding — saddles should have cruppers for this service. In addition, every man should take as many cows with him as he can get, they are scarce in Oregon, they might be learnt to work in yoke the same as

oxen. With this outfit they ought each to have not less than from \$20 to \$50 in cash — when you go to the country your labor will produce cash — everything there commands cash, and common labor is very high. It will be necessary in such a company, that they should be completely organized like a company of regular soldiers; and I would advise that they agree (after choosing their officers) that they, while on their march thither, shall subject themselves to be governed by the rules and articles of war of the United States, so far as they shall apply to that service. I would recommend that to 100 men, they elect one Captain, who should carry a spy glass, four Sergeants, and four Corporals — and there ought to be a Bugler to give the signals, and if one cannot be had, there should be a drum and fife. Guides and buffalo hunters will be required who will have to be paid a reasonable sum, as it will not do for every one to go hunting and shooting at pleasure.

Prices at this time.— Wheat is nominally worth \$1 per bushel, beef 6 cents per pound, pork 10 cents, cows are worth \$50, oxen by the pair \$60, horses \$35, potatoes 25 cents per bushel, common labor is worth \$35 per month and boarding, &c. found. I should recommend those who wish to emigrate, to be ready at this place by the first to the tenth of May. This route will be found much shorter and easier than any other which has been travelled. There are on this side of the mountains to cross, first Skunk, Des Moines, and then the Missouri, after that you will cross the Loupe Forke of Big Platt, this last stream is quite shallow at a common stage of water, say about from 18 inches to 3 feet — has a quick sand bottom, and ought to be crossed with double teams and they should be hurried on fast.

A party of the above description should take with them 2 good cross-cut saws and 2 whip saws, spikes and oakum that in case they could do no better, they could in two days

build a ferry boat, say 30 feet long and 10 feet wide, but they will hardly be reduced to that necessity, because there is no stream on the whole route, except the Missouri river, but what you can ford in a common stage of water during the summer months — and I believe there is a ferry kept at or near the Council Bluffs. Take all the cattle you can, they will travel as fast as your teams and keep fat. Also, have plenty of seines and fishing tackle, hooks, lines, &c.

I speak of Burlington as a very suitable point to start from, because we have an abundance of the necessary supplies, and an excellent and very commodious steam ferry boat for those who are east of us. Companies ought not to be less than fifty efficient fighting men, but 100 would be better; there are some Indians who are rather hostile, and they might attack a small party for plunder.

ONE WHO INTENDS TO EMIGRATE.

N. B. Newspapers friendly to the enterprise are requested to give the above an insertion.

## SOME PUBLICATIONS

*Proceedings of the Early Iowa State Bar Association, 1874-1881.* Compiled by A. J. SMALL. Iowa City: The Iowa State Bar Association. 1912. Pp. 262. Portraits. This volume brings together from widely scattered sources the proceedings of the State Bar Association which existed in Iowa from 1874 to 1881, and which was probably the first State Bar Association to maintain its existence for any length of time. Among the first officers of this Association were James Grant, who was the first president, C. H. Gatch, O. P. Shiras, Crom Bowen, C. C. Nourse, H. H. Trimble, William G. Hammond, and other men prominent in Iowa history.

Eighty-eight pages in the volume are taken up with the proceedings of annual meetings, while the remainder of the book is devoted to the following addresses delivered before the Association: *Sources of Inspiration in Legal Pursuits*, by T. M. Cooley; *The Progress and Development of the Common Law*, by J. M. Love; *The Relation which the Law and its Administration Sustain to General Literature*, by E. H. Stiles; *The Claims of the Legal Profession to General Respect in Civilized Society*, by G. F. Magoun; *Inns of Court and Westminster Hall*, by John F. Dillon; *The Ideals of the Legal Profession*, by Samuel Freeman Miller; *Professional Ethics*, by George W. McCrary; and *English Law as a Social Science*, by J. M. Woolworth.

*Kansas in the Sixties.* By SAMUEL J. CRAWFORD. Chicago: A. C. McClurg & Co. 1911. Pp. xvii, 441. Portraits. This volume, written by the War Governor of the State of Kansas, deals largely with military and Indian affairs. At the same time it presents an autobiographical account of the career of the author during the period of the Civil War and Reconstruction.

The book is divided into three parts, the first of which deals mainly with military operations in Missouri and Arkansas, especial attention being given to the part played by Kansas men. Part

two is devoted to politics and Indian affairs from 1864 to 1869. It is in this connection that the author refers to a charge of corruption in the sale of certain Cherokee Indian lands made against James Harlan of Iowa, then Secretary of the Interior under President Johnson. Although this charge was frequently made against Harlan in political contests it is believed that a study of documentary evidence will prove that it was groundless. Part three contains an account of incidents connected with the later official career of the author. An appendix contains much documentary material.

The book is written in a readable style and presents a personal view that is worthy of consideration. But the absence of any citation to source material induces the belief that it is more reminiscent than critical in character, and hence it can hardly be accepted as an authoritative treatment of the period.

*American Colonial Government, 1696-1765.* By OLIVER MORTON DICKERSON, PH. D. Cleveland: The Arthur H. Clark Company. 1912. Pp. 390. Plates. The title of this volume might be misleading were it not for the qualifying statement on the title page that it is "A study of the British Board of Trade in its relation to the American Colonies, Political, Industrial, Administrative". The book is divided into six parts or chapters. The organization and personnel of the Board of Trade are discussed in the first chapter. The relations of the Board of Trade to other departments of administration, such as the Privy Council, the Secretary of State, the administrative boards, the Bishop of London, and Parliament, is the subject to which chapter two is devoted. Chapter three deals with the difficulties of colonial administration, among which were inadequate means of communication, lack of responsibility, the weakness of the colonial Governor's position, and the rise of the colonial assemblies. The three remaining chapters have to do respectively with the imperialistic policy of the Board of Trade; the treatment of colonial legislation; and boundaries, trade, defense, and Indian affairs. A resumé of ten pages completes the monograph.

As is indicated by more than eight hundred footnotes containing

citations to sources as well as a great mass of information supplementing statements in the text, the author has been diligent in his search for materials and has exploited many sources hitherto unused. The volume is a distinct contribution to the literature on colonial government in America.

*Publications of the Arkansas Historical Association.* Vol. III. Edited by JOHN HUGH REYNOLDS. Fayetteville: The Arkansas Historical Association. 1911. Pp. 382. In addition to reports and proceedings of annual meetings of the Association this volume contains fifteen papers dealing with various phases of the history of the State of Arkansas. While a majority of the papers deal with topics which are especially local in character there are others which are contributions to the literature on subjects of general interest. Jesse Turner in an extended paper on *The Constitution of 1836* furnishes a picture of the political intrigues and Congressional debates often connected with the admission of States into the Union, as well as of the methods of drawing up State constitutions. A brief review of the *Suffrage in Arkansas* is presented by Joseph T. Robinson. A short article on the *Legal Status of Negroes in Arkansas Before the Civil War*, by Jacob Trieber, is also of more than local interest. A chapter in the great story of the westward movement is presented by J. M. Lucey in a paper on the *History of Immigration to Arkansas*. Finally, Samuel W. Moore's monograph on *State Supervision of Railroad Transportation in Arkansas* deals with a problem which has confronted every American Commonwealth.

#### AMERICANA

##### GENERAL AND MISCELLANEOUS

Installments of the *List of Works Relating to the West Indies* may be found in the March, April, and May numbers of the *Bulletin of the New York Public Library*.

A monograph on *The Standard Rate in American Trade Unions*, by David A. McCabe, appears as a recent number of the *Johns Hopkins University Studies in Historical and Political Science*.

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A pamphlet issued in May by the American Society for Judicial Settlement of International Disputes contains a discussion of *Non Justiciable Disputes and the Peace Treaties*, by Omer F. Hershey.

The *Scope and Organization* of the Carnegie Institution of Washington is described in a pamphlet issued on the occasion of the tenth anniversary of the Institution on December 14, 1911.

*Our Cavalry Organization as Viewed in the Light of its History and of Legislation*, by H. R. Hickok, is an article in the May number of the *Journal of the United States Cavalry Association*.

The R. R. Bowker Company of New York City has launched a monthly publication known as *Index to Dates of Current Events*, which will prove valuable both for present-day use and for reference in future years.

*What Shall Be Done With the Sherman Act?* is the subject of a symposium in *The National Civic Federation Review* for February. Among other articles is one on *Samuel Gompers—The Flag and McNamara Incidents*, by Ralph M. Easley.

A *Special Report of the Department of Archives and History for 1911*, prepared by the Archivist, H. J. Eckenrode, is included in the *Eighth Annual Report of the Library Board of the Virginia State Library* and is devoted to a *List of the Revolutionary Soldiers of Virginia*.

In the *Proceedings of the American Philosophical Society* for January-March may be found an article by John Bassett Moore on *Contraband of War*, which is supplemented by an appendix containing extracts from several treaties between the United States and other nations.

*House Document* No. 670 of the second session of the Sixty-second Congress, which consists of the message of President Taft transmitting the reports of the Commission on Economy and Efficiency has been distributed as a volume of five hundred and sixty-five pages, entitled *Economy and Efficiency in the Government Service*.

Pamphlets published by the American Association for International Conciliation during April, May, and June are: *The Mirage of the Map*, by Norman Angell; *Philosophy of the Third American Peace Congress*, by Theodore Marburg; and *The International Mind*, by Nicholas Murray Butler.

*Underhand Opposition to Trade Unionism*, by Samuel Gompers; *International vs. Purely Canadian Trade Unionism*, by James Simpson; *Railroad Strikes Since 1877*, by Arthur E. Holder; and *Social Betterment*, by John K. Towles, are articles which appear in the June number of the *American Federationist*.

Among the contents of *The Scottish Historical Review* for April are the following articles: *A Roll of the Scottish Parliament, 1344*, by J. Maitland Thomson; *The Monuments of Caithness*, by George Neilson; *The Post-Reformation Elder*, by James Balfour Paul; *Superstition in Scotland of To-day*, by A. O. Curle; and *Notes on Swedo-Scottish Families*, by Eric E. Etzel.

The June number of *The American Economic Review* opens with a discussion of *The Report of the Tariff Board on Wool and Woolens*, by F. W. Taussig. Other contributions are: *The Backward Art of Spending Money*, by Wesley C. Mitchell; *Marketing of Agricultural Lands in Minnesota and North Dakota*, by John Lee Coulter; and "The Equation of Exchange" for 1911, and *Forecast*, by Irving Fisher.

William E. Higgins presents the *Report of the Committee of the Kansas Bar Association on Crimes and Criminal Procedure* in the May number of the *Journal of the American Institute of Criminal Law and Criminology*. Among the articles are: *Criminal Procedure in Canada*, by William Renwick Riddell; *The Recent Federal Census of Prisoners*, by Joseph A. Hill; and *Crime and Insanity in the Twenty-first Century*, by Cesare Lombroso.

A. Maurice Low is the writer of an article strongly commendatory of *William Howard Taft* which occupies the opening pages in the *Yale Review* for April. The interesting subject of *Glacial Man* is discussed by Richard Swann Lull. *Certain Tendencies of*

*American Biography* are pointed out by Allen Johnson. In the July number Simeon E. Baldwin writes on the subject of *The Educated Man in Public Office*, and Frank Lewis Nason presents a view of *Political Mexico To-day*. Other articles to be found in this number are: *The Annexation of Korea: An Essay in "Benevolent Assimilation"*, by George Trumbull Ladd; and *Reasonable Regulation of Railroad Rates*, by Morrell W. Gaines.

*The Regulation of Railway Rates Under the Fourteenth Amendment*, by Francis J. Swayze, is an article which occupies the opening pages in *The Quarterly Journal of Economics* for May. *National and District Systems of Collective Bargaining in the United States* are discussed by George E. Barnett. Two other contributions are: *The Powder Trust, 1872-1912*, by William S. Stevens; and *Taxation in China*, by E. T. Williams.

*The Failure of the Fourteenth Amendment as a Constitutional Ideal*, by Charles Wallace Collins, Jr., is an article which opens *The South Atlantic Quarterly* for April. *The Elections of 1872 in North Carolina*, by J. G. de Roulhac Hamilton; *The State University and a National System of Education*, by John H. Reynolds; and *Gideon Welles on War, Politics, and Reconstruction*, by William K. Boyd, are other articles of historical interest.

*The American Journal of Sociology* for May is opened by an article on *Race Psychology: Standpoint and Questionnaire, with Particular Reference to the Immigrant and the Negro*, by W. I. Thomas. Other contributions are: *Ethnic Census in Minneapolis*, by Albert Ernest Jenks; *Infant Welfare in Germany and Belgium—General Conclusions*, by Charles Richmond Henderson; and *Socialism in the Light of Social Science*, by Albion W. Small.

*Efficiency in City Government* is the general topic discussed in the May number of *The Annals of the American Academy of Political and Social Science*. The need for efficiency in municipal government, efficiency principles applied, bureaus of municipal research, and training for municipal efficiency are the subjects under which the numerous papers, written by experts, are grouped. The supplement to this number of the *Annals* is devoted to *Timber Bonds as Investment Securities*.

Charles A. Beard is the author of a little volume entitled *The Supreme Court and the Constitution*, which was published in June by The Macmillan Company. The seven chapters in the book are devoted to arguments in support of the thesis that the framers of the federal Constitution intended that the Supreme Court should pass upon the constitutionality of acts of Congress. Copious quotations from the writings and speeches of the "fathers" supplement the arguments of the author.

*Governmental Regulation of Insurance in Canada* is the subject of an article by Avard Longley Bishop in *The American Political Science Review* for May. Two other articles are: *The Parliament Act of 1911*, by Alfred L. P. Dennis; and *The New Rôle of the Governor*, by John M. Mathews. The subjects discussed in the *Notes on Current Legislation*, edited by Horace E. Flack, are the British national insurance act, civil service, legislative investigations, reports of occupational diseases and accidents, and State fire prevention.

*The Journal of American History* for the first quarter, 1912, is printed in two parts or sections. Among the articles in the first part are: *Washington's Old World Ancestry*, by Mabel Thacher Rosemary Washburn; *John Tyler's Plan to Prevent the Catastrophe of the Civil War*, by Stephen Farnum Peckham; *Interstate Controversies Arising from Injuries to Commerce, Navigation and Public Health*, by George Cowles Lay; and *Our Duty to the Immigrant*, by Terrence V. Powderly. Part two is largely taken up with descriptions and illustrations of pageants and other celebrations commemorating the anniversaries of the founding of various cities and towns in Vermont.

Arthur Wallace Dunn is the writer of an article entitled *Campaigning for the Nomination*, which appears in the May number of *The American Review of Reviews*. Among the other articles in this number are: *Causes of Waste and Inefficiency in National Government*, by Frederick A. Cleveland; and *The Organization of the Electorate*, by William Watts Folwell. In the May number may be found the following contributions on political subjects: *The*

*Convention System and the Presidential Primary*, by C. S. Potts; Mr. Roosevelt's *Recall of Judicial Decisions: A Lawyer's Comments*, by Harold Remington; *What Have we Done in Porto Rico*, by Forbes Lindsay; and *A World's Object Lesson from the British Democracy*, by W. T. Stead. Albert Shaw very appropriately writes a sketch of the career of *William T. Stead*, which appears in the June number. *Roosevelt and the Third Term* is the subject of an unsigned article; C. S. Potts discusses *The Unit Rule and the Two-Thirds Rule* in their relation to the Democratic party; and Holland Thompson presents the first chapter of a discussion of *Big Business and the Citizen*.

The fourth and fifth installments of the monograph on *The Quest of El Dorado*, by J. A. Manso, appear in the *Bulletin of the Pan American Union* for April and May, respectively. The fourth chapter deals with the expeditions of Antonio de Berrio, the Franciscan lay brothers, and Nuflo de Chaves; while chapter five is devoted to the expedition of Sir Walter Raleigh. In the April number of the *Bulletin* may also be found a description of *Xochicalco*, by Francis Baillie Purdie, which is one of the series of articles on *Ancient Temples and Cities of the New World* which has been appearing in the *Bulletin*.

Frederick Pollock's lectures on *The Genius of the Common Law* are continued in the April, May, and June numbers of the *Columbia Law Review*. In the April number Edwin M. Borchard writes on *Jurisprudence in Germany*, and William C. Coleman discusses *The Commerce Clause and Intrastate Rates*. Two articles in the May number are: *The Alienability of the State's Title to the Foreshore*, by Royal E. T. Riggs; and *The Rights of the Defrauded Customer of an Insolvent Broker*, by Garrard Glen. I. Maurice Wormser is the writer of an article entitled *Piercing the Veil of Corporate Entity*, which appears in the June number where may also be found a discussion of *Martial Law*, by Henry Winthrop Ballantine.

*The Proposed National Eight-Hour Law*, by James A. Emery; and *The Relation of Industrial Combinations to National Welfare*, by John Kirby, Jr., are articles in the April number of *American*

*Industries*. In the May number, among other articles are the following brief sketches: *The New "Chamber of Commerce of the United States of America"*, by A. H. Baldwin; and *Patent Rights and the Courts*, by Charles M. Haynes. Here may also be found an excellent digest of workmen's compensation acts passed by State legislatures in 1911. Among the articles in the June number are: *Politico-Industrial Conditions*, by John Kirby, Jr.; *Legislation and Business*, by James A. Emery; *The Necessity for Currency Reform*, by Irving T. Bush; *Workmen's Compensation for Accidents*, by Frank E. Law; and *The Establishment of Industrial Peace*, by Joseph W. Bryce.

*Jonathan Trumbull* — *The Evolution of an Administrator*, by Forrest Morgan; *The Great Carrying Place*, by Edgar W. Ames; and *Historical San Jose*, by Mary McCrae Cutler, are among the contributions in *Americana* for March. Articles in the May number are: *The United States and the Movement for International Arbitration and Peace*, by Victor Hugo Duras; *Washington's Headquarters at Morristown*, by Josiah C. Pumpelly; *The Irish Chapter in American History*, by Thomas S. Lonergan; and some statistics relative to the *Indians in the United States* taken from census reports. The chapters of Brigham H. Robert's *History of the Mormon Church* which appear in these numbers contain much material relative to the crossing of Iowa by the Mormons.

*A Draft of a Frame of Government* is the subject of an article by Theodosius Stevens Tyng, appearing in the June number of the *Political Science Quarterly*, which in the words of the author, "is an attempt to bring together in the form of a state constitution some results of the world's experience in popular government which seem likely to be helpful in bringing about fuller control by the people, and greater efficiency in the work of their servants, than we now have." Then follows the first installment of a study of the *Separation of Powers: Administrative Exercise of Legislative and Judicial Power*, by Thomas Reed Powell. Other articles are: *Interest and Profit in Rate Regulation*, in which the practice of the Wisconsin Railroad Commission is discussed by Howard T. Lewis; *The British National Insurance Act*, by Edward Porritt; and *The Mexican Revolution: Its Causes and Consequences*, by L. S. Rowe.

A new periodical known as the *National Municipal Review* to be published quarterly by the National Municipal League made its initial appearance in January. The high standard set for the magazine is indicated by the following articles which, among others, appeared in the first issue: *American Municipal Tendencies*, by Clinton Rogers Woodruff; *Effective Municipal Government: A Study of the City of Frankfort-on-the-Main*, by William Dudley Foulke; and *The Defeat of the Tammany-Gaynor Charter*, by Lawrence Arnold Tanzer. The same standard is maintained in the April number in the following articles: *The Modern Chamber of Commerce*, by Ryerson Ritchie; *Commission Government: Its Strength and its Weakness*, by Martin A. Gemünder; *The Thralldom of Massachusetts Cities*, by Harvey N. Shepard; *Civic Surveys*, by Thomas H. Mawson; and *Conservative Aspects of the Recall*, by H. S. Gilbertson. In addition to the more extended discussions there are departments devoted to *Short Articles, Reports and Documents, Current Municipal Legislation, and Events and Personalities*.

#### WESTERN

Numbers in the series of *Anthropological Papers of the American Museum of Natural History* recently issued are: *Jicarilla Apache Texts*, by Pliny Earle Goddard; *String-Figures from Patomana Indians of British Guiana*, by Frank E. Lutz; and *Ceremonial Bundles of the Blackfoot Indians*, by Clark Wissler.

*Bulletin 47* issued by the Bureau of American Ethnology consists of *A Dictionary of Biloxi and Ofo Languages Accompanied with Thirty-one Biloxi Texts and Numerous Biloxi Phrases*, prepared by James Owen Dorsey and John R. Swanton. The three hundred and forty pages of the volume are divided almost equally between the dictionary and the texts and phrases.

Among the articles in the January-February number of *The American Antiquarian and Oriental Journal* are the following: *Antiquarian Southwest England*, by W. Fenwick; *When North America was Settled*, by Charles Hallock; *Ethnic Nomenclature*, by N. Kolkin; *Cayuga Notes*, by Grace E. Taft; *The Dawn of Architecture*, by Felix J. Koch; and *Comparative Mythology*, by Wakeman Ryno.

*The Graduate Magazine of the University of Kansas* for May opens with a brief biographical sketch of *Elial J. Rice, First of the University Faculty*, by Lillian Ross Leis, who was the first student enrolled in the University. Two articles dealing with the early history of literary societies at the University of Kansas are: *Who Was Who in Early Literary Societies and to what Purpose*, by Glen Miller; and *The Oreads Were in Earnest*, by J. H. Long.

In an article entitled *The Quick in the "Dead"*, which appears in the April number of *The University of California Chronicle*, Herbert Putnam points out the importance of preserving in libraries material which at present may seem useless. He cites many instances in which obscure and apparently valueless books have later furnished information that has settled important disputes. *Forests and American History* is the subject of an interesting article by Hugo Winkenwerder.

*The Quarterly Journal of the University of North Dakota* for April opens with *A Sketch of the Early Political Parties in the United States*, by Orin G. Libby. *The Remaking of Egypt — The Nile Irrigation Project* is discussed by Wallace Nelson Stearns. John Morris Gillette points out the *Nature of the Rural Social Problem*, and Andrew Franklin Hunsaker describes the *Government in the Panama Canal Zone*. The July number of the *Quarterly Journal* is devoted to articles dealing with education and the school system in North Dakota.

#### IOWANA

A second installment of A. Marston's discussion of *A System of Industrial Education for Iowa* is to be found in the May number of *Iowa Factories*.

In the April, May, and June numbers of *The American Freemason* appear continuations of John Yarker's discussion of *Some Neglected and Difficult Points of Masonic History; and Chiefly of the Ancient or Jacobite Masonry*.

A volume of over four hundred pages, entitled *Iowa Daughters of the American Revolution, 1891-1911*, has been compiled by Mary

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H. S. Johnston. The book contains a list of all the officers of the organization since 1891, the programs and proceedings of the State Conferences, and a list of the chapters in Iowa with a roster of the members of each chapter.

Volume four, number one of the *Studies in Sociology, Economics, Politics, and History* published by the State University of Iowa contains a monograph on *The Development of Belligerent Occupation*, by Jacob Elon Conner.

The June number of *The Northwestern Banker* contains a list of the cities in which the Iowa Bankers Association has held its conventions since 1887, together with a list of the officers of the Association since its organization.

James Black (1868-1870) and George Thacher (1871-1877) are the Presidents discussed by Theodore A. Waner in the installments of his series of articles on the *Presidents of the University* in the April and May numbers of *The Iowa Alumnus*.

The first installment of a *Biography of Alexander Hale Smith*, by Inez Smith, appears in the May number of *Autumn Leaves*. Under the heading *Plano to Independence, via Boston* in the June number may be found a biographical sketch of Abbie Augusta Horton.

The sixth volume of the *Roster and Record of Iowa Soldiers* is devoted to Iowa men in the Mexican War and the Spanish-American War, to miscellaneous military organizations, such as the Mormon battalion, the northern border brigade, the southern border brigade, and the Spirit Lake Relief Expedition, and to Iowa men in military organizations of other States.

The remarks made by W. W. Baldwin at the noon-day luncheon of the Commercial Exchange of Burlington, Iowa, on March 11, 1912, on the subject of *Employers' Liability and Workmen's Compensation* have been published in pamphlet form. The pamphlet outlines the main features of the federal employers' liability law and of similar laws recently enacted in nine States.

Frank Hayward Kincaid is the editor and compiler of a *Register of the Society of Sons of the Revolution in the State of Iowa*, which has recently appeared. The volume contains the constitution of the General Society of Sons of the Revolution, the by-laws of the Iowa Society, and the membership roll of the Iowa Society. A number of excellent portraits of officers and prominent members embellish the volume.

The April number of *The Alumnus* published at Iowa State College at Ames opens with a paper on *Commerce and World Peace*, by Hugh Webster. *A School Master of the Seventies* is the subject of a brief sketch by Edna Bell Anderson. Two articles in the May number are: *The College and the Newspapers of Iowa*, by Charles F. Curtiss; and *The Trend of Modern Legislation*, by James D. Shearer.

*Independence in an Early Day*, by Heman C. Smith; *Independence Publications*, by the same author; *The First Church Romance in Independence*, by Vida Elizabeth Smith; *The Exodus from Jackson County*, by Mark H. Siegfried; *Zion in Her Desolation*, by Heman C. Smith; *Memories of Independence*, by Vida E. Smith; and *Independence Stake*, by William H. Garrett, are articles in the April number of the *Journal of History* published at Lamoni by the Reorganized Church of Jesus Christ of Latter Day Saints.

*The London Sliding Scale*, by G. A. Gesell; and *Municipal Election Laws of Iowa*, by A. W. Osborne, are articles in the March number of *The City Hall — Midland Municipalities*. In the April number there is a paper by Don L. Love on *Municipal Ownership of Public Utilities*, and a discussion of *The Unification of Municipal Accounting*, by Fred H. Cosgrove. The paper by Don L. Love is continued in the May number, where may also be found the following articles: *The Commission Plan of Municipal Government*, by Emory C. Rice; and *Competition for Expert Administrative Positions*, by Clinton Rogers Woodruff.

#### SOME RECENT PUBLICATIONS BY IOWA AUTHORS

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*Captain Martha Mary*. New York: Century Co. 1912.

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*Divinity of Christ.* Chicago: New Christian Century Co.  
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*Religion Worth Having.* Boston: Houghton, Mifflin & Co.  
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ernment Printing Office. 1912.
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quence of the Anti-Slavery Contest.* New York and Chicago:  
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of Iowa.* Davenport: Edward Borchardt. 1912.
- Murphy, Thomas D.,  
*Three Wonderlands of the American West.* Boston: L. C.  
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- Norton, Roy,  
*The Plunderer.* New York: W. J. Watt & Co. 1912.

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*History and Genealogy of the Page Family.* Des Moines: Published by the author. 1912.
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*Molly McDonald: A Tale of the Old Frontier.* Chicago: A. C. McClurg & Co. 1912.
- Robbins, C. A.,  
*Laws Made Plain.* Carlville, Iowa: Carlville State Bank. 1911.
- Robbins, Edwin Clyde,  
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- Ross, Edward Alsworth,  
*Changing America: Studies in Contemporary Society.* New York: Century Co. 1912.
- Russell, Charles Edward,  
*Stories of the Great Railroads.* Chicago: C. H. Kerr & Co. 1912.  
*The Passing Show of Capitalism.* Girard, Kansas: Appeal to Reason. 1912.
- Small, A. J. (Compiler),  
*Proceedings of the Early Iowa State Bar Association, 1874-1881.* Iowa City: The Iowa State Bar Association. 1912.
- Turner, Cyrus,  
*Eight and One-Half Years in Hell.* Des Moines: Published by the author. 1912.
- Williams, Henry Smith,  
*Science in the Industrial World.* New York: Goodhue Co. 1911.  
*Ingenuity and Luxury.* New York: Goodhue Co. 1911.  
*The Conquest of Time and Space.* New York: Goodhue Co. 1911.
- Williams, Henry Smith (Joint Author),  
*The Conquest of Nature.* New York: Goodhue Co. 1911.

## SOME RECENT HISTORICAL ITEMS IN IOWA NEWSPAPERS

*The Register and Leader*

- Noble Work Done by Mrs. Tracey in Furnishing Des Moines with its First Hospital Facilities, by L. F. Andrews, April 7, 1912.

## 446 IOWA JOURNAL OF HISTORY AND POLITICS

- Iowa's Climate Perfect, from View of the Soil Culture Expert, by Irving N. Brant, April 28, 1912.
- Long Time Strength of Iowa University, April 28, 1912.
- How the Musquakies Were Driven by Tribal Enemies Out of Northeastern Iowa, by O. H. Mills, April 28, 1912.
- Jonathan Wright Cattell, One of the Noted Pioneers, by L. F. Andrews, May 5, 1912.
- Remarkable Natural Rock Formation in Chickasaw County and its Historical Significance, by Nellie E. Gardner, May 12, 1912.
- Colonel John N. Dewey, by L. F. Andrews, May 12, 1912.
- J. R. Rollins in the Early Days, by L. F. Andrews, May 19, 1912.
- History of Book Plates in Iowa — Some of the More Striking Ones, by Malcolm G. Wyer, May 26, 1912.
- George C. Baker and the Trusts, by L. F. Andrews, June 2, 1912.
- Oldest Grand Jury in Iowa at Dubuque, June 9, 1912.
- Sketch of Life of Dr. Edward J. McGorrisk, by L. F. Andrews, June 9, 1912.
- Fifty Miles an Hour on Old Railroads with Wood Burning Engines, June 9, 1912.
- How the Lakes in Northern Iowa Got their Names, by L. F. Andrews, June 16, 1912.
- Dr. W. H. Dickinson, Honored Pioneer of Des Moines, by L. F. Andrews, June 30, 1912.

### *The Burlington Hawk-Eye*

- In Old Burlington (In each Sunday issue).
- A Former Iowan's Memory of the Battle of Shiloh, by W. P. Kremer, April 7, 1912.
- Charles Miller — A Cousin of Abraham Lincoln, April 14, 1912.
- Burlington in the Days before the Bridge, April 21, 1912.
- The War Time Coward, by Robert J. Burdette, April 28, 1912.
- An Ancient Land Mark in Burlington, May 5, 1912.
- Lights and Shadows of a Soldier's Life, by Robert J. Burdette, May 5 and June 9, 1912.
- Some of Iowa's Favorite Sons, by Eugene Parsons, May 12, 1912.
- Tribute to the late C. L. Poor, May 19, 1912.

**A Lost Chapter in the History of the Y. M. C. A. in Burlington,  
May 26, 1912.**

**Gear and Young, June 2, 1912.**

**The Beginning of History in Iowa, by Edgar R. Harlan, June 9,  
1912.**

**Sketch of Life of Robert Marshall Hanna, June 16, 1912.**

## HISTORICAL SOCIETIES

### PUBLICATIONS

In addition to continuations *The Virginia Magazine of History and Biography* for April contains a transcript of *The Tobacco Acts of 1723 and 1729*, prepared by C. G. Chamberlayne.

Two articles in *The Medford Historical Register* for April are: *Union Congregational Church*, by Henry B. Doland; and *The Walnut Tree Division of the Stinted Pasture*, by John H. Hooper.

Besides continuations the *Maryland Historical Magazine* for June contains the following articles: *Maryland's Share in the Last Inter-colonial War*, by Arthur Meier Schleisinger; and *The Brengle Home Guard*, by John A. Steiner.

Adelaide Curtiss describes *The Venerable City of York* in the opening pages of the *Records of the Past* for March-April. *The Burial Mounds at Albany, Illinois*, is the subject of an illustrated article by William Baker Nickerson.

*A Digest and Revision of Stryker's Officers and Men of New Jersey in the Revolutionary War*, revised and compiled by James Wall Schureman Campbell, has been published by the Society of the Cincinnati in the State of New Jersey.

Among the contents of the April number of the *Historical Collections of the Essex Institute* may be found the following articles: *Hathorne Hill in Danvers, with Some Account of Major William Hathorne*, by Arthur H. Harrington; and *Northfields, Salem, in 1700*, by Sidney Perley.

Two articles, namely *The German Drama in English on the Philadelphia Stage*, by Charles F. Brede; and *Die Literarische Geschichte des Milwaukeeer Deutschen Bühnenwesens, 1850-1911*, by J. C. Andressohn, are to be found in the January-April number of the *German American Annals*.

The January-March number of the *Quarterly Publication of the Historical and Philosophical Society of Ohio* contains the *Journal of Miss Susan Walker, March 3rd to June 6th, 1862*. This brief journal furnishes a glimpse of the work carried on among the freed-men by Miss Walker and those associated with her.

*The Shelby Raid, 1863*, by George S. Grover, is the opening contribution in the *Missouri Historical Review* for April. Other articles are: *The Battle of Lexington as Seen by a Woman*, by Susan A. Arnold McCausland; a brief biographical sketch of *Daniel Boone*, by Thomas Julian Bryant; and *Scenic and Historic Places in Missouri*, by Francis A. Sampson.

The fifth volume of the *Monograph Series* published by the United States Catholic Historical Society consists of volume one of a work entitled *Three-Quarters of a Century (1807-1882) a Retrospect*. The writer is the late August J. Thébaud, and the volume is edited by Charles G. Herbermann. This volume deals with political, social, and ecclesiastical events in France.

The January number of the *Ohio Archaeological and Historical Quarterly* contains volume two of *The Moravian Records*, edited by Archer Butler Hulbert and William Nathaniel Schwarze. The material here printed consists of *The Diaries of Zeisberger Relating to the First Missions in the Ohio Basin*, which present an interesting picture of early life and travel in the West.

Among the contents of *The New England Historical and Genealogical Register* for April are: *Residents Received and Refused in Shirley, Mass.*, communicated by Horace Edwin Hildreth; *Records of the Dresden, Me., Congregational Church*, communicated by William Davis Patterson; and *Benjamin Cleaves's Journal of the Expedition to Louisburg, 1745*, copied from the original in the possession of the Society.

A number of interesting papers are to be found in the *Proceedings of the American Antiquarian Society* at the annual meeting held in Worcester on October 18, 1911. George Lincoln Burr discusses *New England's Place in the History of Witchcraft*. Adolph

Francis Bandelier is the writer of an extended description of *The Ruins of Tiakuanaco* in Bolivia. *Some Bibliographical Desiderata in American History* are set forth by William MacDonald. *Asia and America* is the subject of a monograph by Johann Georg Kohl, in which the writer discusses the ideas which early geographers had concerning the geographical relation between America and Asia. These ideas, of course, explain the action and aims of the earliest explorers of America.

The opening contribution in *The Quarterly of the Texas State Historical Association* for April is an article on *Diplomatic Relations of Texas and the United States, 1839-1843*, by Thomas Maitland Marshall. The remainder of the *Quarterly* is practically taken up with a second installment of *Correspondence from the British Archives Concerning Texas, 1837-1846*, edited by Ephraim Douglass Adams.

Continuations of *The Baronies of South Carolina*, by Henry A. M. Smith; *Abstracts from the Records of the Court of Ordinary of the Province of South Carolina*, by A. S. Salley, Jr.; *Order Book of John Faucheraud Grimké* from August, 1778, to May, 1780; and *Register of St. Andrews Parish, Berkeley County, South Carolina*, copied and edited by Mabel L. Webber, are to be found in the April number of *The South Carolina Historical and Genealogical Magazine*.

The second installment of an *Historical Sketch of the Ewing Presbyterian Church*, by William M. Lanning; *The Erection of the Presbytery of New Brunswick, Together with Some Account of the Beginnings of Organized Presbyterianism in the American Colonies*, by George H. Ingram; and *Memorable Places Within the Bounds of the United Presbyterian Presbytery of Philadelphia*, by James Price, are articles in the June number of the *Journal of the Presbyterian Historical Society*.

After a period of suspension of more than three years *The Washington Historical Quarterly* resumed publication in April. J. N. Bowman, in the opening article discusses *The Pacific Ocean and the Pacific Northwest*. Stella E. Pearce presents a brief survey of

*Suffrage in the Pacific Northwest: Old Oregon and Washington*, which indicates how democratic principles of government have gradually been extended in the State of Washington. *Eastward Expansion of Population from the Pacific Coast* is an interesting subject discussed by Guy Vernon Bennett. The last article is one by Oliver H. Richardson on *Mary Queen of Scots in the Light of Recent Historical Investigations*. Under the heading of *Documents* may be found a number of hitherto unpublished letters, papers, and reports relating to the *Secret Mission of Warre and Vavasour*.

A full account of *The Meeting of the American Historical Association at Buffalo and Ithaca* is to be found in the opening pages of *The American Historical Review* for April. Four articles to be found in this number are: *The Establishment of the Committee of Both Kingdoms*, by Wallace Notestein; *The Quit-Rent System in the American Colonies*, by Beverley W. Bond; *Saxon-American Relations, 1778-1828*, by William E. Lingelbach; and *The Trent Affair*, by Charles F. Adams. Under the heading of documents are to be found *Debates on the Declaratory Act and the Repeal of the Stamp Act, 1766*, contributed by Charles H. Hull and Harold W. V. Temperley.

Volume five of the *History and Proceedings of the Pocumtuck Valley Memorial Association* contains the proceedings of the Association at the annual meetings from 1905 to 1911, inclusive. A large part of the volume is taken up with biographical sketches, but there are a number of other papers among which may be mentioned: *Historic Ideals*, by Thomas Franklin Waters; *Early Hunts-town and Chileab Smith*, by Charles A. Hall; *Samuel Mather, the Pioneer Preacher of Deerfield, and his English Antecedents*, by Richard E. Birks; *Fort Ancient, Ohio — Was it a Fortress*, by George Sheldon; *Life of the Shakers*, by Frederick G. Howes; *The Mohawk Trail*, by John Adams Aiken; and *The Old Fort at Pemaquid*, by G. Spencer Fuller.

*Kasson's Long Fight for the New Capitol*, which finally resulted in the erection of the present State House at Des Moines, is described by Johnson Brigham in an article in the July, 1911, number

of the *Annals of Iowa*, which recently appeared. A biographical sketch of *Amos Noyes Currier*, by Mrs. Virginia J. Berryhill, will be of especial interest to alumni of the State University of Iowa. Colonel George W. Crosley relates *Some Reminiscences of an Iowa Soldier*; while Marcellus Pugsley describes *A Plains Adventure of an Iowa Man*. In the editorial department there is a description of a palmetto flag now in possession of the State Historical Department of Iowa, which was captured by Iowa troops at Columbia, South Carolina, in February, 1865.

Chapters ten, eleven, and twelve of Walter Carleton Woodward's monograph on *The Rise and Early History of Political Parties in Oregon*, devoted respectively to the political revolution of 1860, the events of the year 1860-1861, and the union movement in 1862, may be found in the belated December, 1911, number of *The Quarterly of the Oregon Historical Society*. Lester Burrell Shippee is the writer of an article entitled *An Echo of the Campaign of Sixty*. Walter H. Abbott points out the importance of the *Preservation of Indian Names*; while T. C. Elliott furnishes editorial notes for a letter from Archibald McKinlay to Elwood Evans in which is related *The Gun Powder Story*, describing a romantic incident in the early history of the Pacific Northwest.

*Illinois* is the subject of an address printed in the April number of the *Journal of the Illinois State Historical Society* in which Clark E. Carr traces the main events in the history of the State of Illinois. An article on *Cairo in 1841*, by John M. Lansden, centers about incidents connected with Darius B. Holbrook, Charles Dickens, and Alfred Tennyson Dickens; while *The Visit of Alfred Tennyson Dickens to Lebanon, Belleville and East St. Louis, November 22, 1911*, is described by Mrs. Charles P. Johnson. *A Sketch of the Dubois Family, Pioneers of Indiana and Illinois* is furnished by Helen L. Allen. Under the heading of *The Indian War* may be found two lengthy letters concerning the Black Hawk War, written by William Orr to John York Sawyer. *Abraham Lincoln's Substitute in the Civil War* is the title of a three-page sketch by E. S. Walker. Walter Colyer contributes a biographical sketch of *Walter L. Mayo, A Pioneer of Edwards County, Illinois*.

## ACTIVITIES

The Oklahoma Historical Society held its annual meeting at Oklahoma City on June 1, 1912. The officers for the past year were reelected, and among other business a plan for marking the Irving trail was approved.

At the annual meeting of the Virginia Historical Society held on January 27, 1912, the following officers were elected: W. Gordon McCabe, President; Archer Anderson, Edward V. Valentine and Lyon G. Tyler, Vice Presidents; William G. Stanard, Corresponding Secretary and Librarian; David C. Richardson, Recording Secretary; and Robert A. Lancaster, Jr., Treasurer.

The School of American Archaeology founded at Santa Fé, New Mexico by the Archaeological Institute of America has issued announcements of its summer session which will be held at Santa Fé and at the ruins in El Rito de los Frijoles during August. Archaeological explorations and excavations are being made during the present year in Central America, New Mexico, and Utah.

At the annual meeting of the Texas State Historical Association held on March 2nd it was voted that the name of *The Quarterly of the Texas Historical Association* be changed to *The Southwestern Historical Quarterly*. While the magazine will contain as much Texas material as in the past it is planned to enlarge its scope to include the entire Southwest of the United States. The officers elected at this meeting were: A. W. Terrell, President; Miss Katie Daffan, Beauregard Bryan, M. J. Bliem, and Mrs. A. B. Looscan, Vice Presidents; Charles W. Ramsdell, Corresponding Secretary and Treasurer; and Z. T. Fulmore and Mrs. D. F. Arthur, members of the Executive Council.

In accordance with an act of the General Assembly of Illinois, approved on May 26, 1911, the commission appointed to draw up plans and make arrangements for a State Historical and Library Building has held several meetings and much progress has been made. A praiseworthy feature of the plans as they have progressed thus far is the fact that ample provision will be made for

the safe-keeping of the archives of the State. Mr. Waldo G. Leland, Secretary of the American Historical Association and an expert archivist, spent some time in Illinois at the request of the commission and made investigations relative to the archives situation. It is hoped by the commission, of which Governor Deneen is the chairman and Dean Evarts B. Greene is secretary, and by the State Historical Society of Illinois that the centennial of the State may be fittingly celebrated in 1918 by the dedication of the proposed building.

#### THE MISSISSIPPI VALLEY HISTORICAL ASSOCIATION

The fifth annual meeting of the Mississippi Valley Historical Association was held at Bloomington, Indiana, May 23-25, 1912. The sessions were held in various buildings of Indiana University, and there were joint meetings with the History Section of the Indiana State Teachers' Association. Among the many interesting papers which were read are the following: *The Quakers in the Old Northwest*, by Harlow Lindley; *The Western Reserve in the Anti-Slavery Movement, 1840-1860*, by Karl F. Geiser; *The Supreme Court and Unconstitutional Legislation — Historical Origins*, by Andrew C. McLaughlin, President of the Association; *Our New Northwest*, by Orin Grant Libby; *De Soto's Line of March from the Viewpoint of an Ethnologist*, by John R. Swanton; *The Disintegration and Organization of Political Parties in Iowa, 1852-1860*, by Louis Pelzer; and *The Truth About the Battle of Lake Erie*, by Paul Leland Haworth. All of these papers will be published in the *Proceedings* which will be issued during the winter.

At the business meeting on the evening of May 24th the following officers were elected for the ensuing year: Reuben Gold Thwaites, President; James Alton James, First Vice President; Isaac Joslin Cox, Second Vice President; and Clarence E. Carter and Miss Idress Head, members of the Executive Committee. The Secretary reported that the total membership of the Association now numbers eight hundred and five, which indicates a steady growth since the last meeting. Various committees made reports, and a resolution was adopted recommending that members of the

Association, and especially members of the teachers' section, give their support to *The History Teachers' Magazine*.

The social side of the meeting was well provided for. At the close of the evening session on May 23rd a reception was tendered to the visiting members of the Association in the Student Building. At noon on May 24th a buffet luncheon was given to the visitors by the faculty of Indiana University. In the afternoon automobiles were provided for a ride around the city and surrounding country. Following the evening session there was a reception for women and a smoker for men in the rooms of the Student Building.

#### THE STATE HISTORICAL SOCIETY OF IOWA

Mr. Clarence Ray Aurner, Research Associate in the Society, received the degree of Doctor of Philosophy at the State University of Iowa in June.

Mr. Thomas Julian Bryant of Griswold, Iowa, a member of the Society, is the writer of a brief article on *Daniel Boone*, which has been reprinted from the April number of the *Missouri Historical Review*.

The Superintendent, Dr. Benj. F. Shambaugh, and the Assistant Editor, Dr. Dan E. Clark, represented the Society at the meeting of the Mississippi Valley Historical Association at Bloomington, Indiana, May 23rd to 25th. Dr. Louis Pelzer read a paper before the Association at that time.

Hon. C. J. Fulton of Fairfield, Iowa, a member of the Society, is engaged in compiling a history of Jefferson County. Mr. Fulton is making a thorough search for materials and it is anticipated that the volume will bring to light many interesting and hitherto unrecorded events in early Iowa history.

The following persons have recently been elected to membership: Mr. H. H. Coggeshall, Des Moines, Iowa; Mr. John T. Hamilton, Cedar Rapids, Iowa; Mr. D. V. Jackson, Muscatine, Iowa; Mr. O. E. Klingaman, Des Moines, Iowa; Mr. E. E. Pinney, Cedar Rapids, Iowa; Mr. W. W. Ripper, Indianola, Iowa; Mr. Thurlow T. Taft,

Humboldt, Iowa; Mr. J. O. Watson, Indianola, Iowa; Mr. Reuben W. Anderson, Pulaski, Iowa; Mr. Samuel Bailey, Mount Ayr, Iowa; Mr. John T. Clarkson, Albia, Iowa; Mr. George C. Davies, Cambridge, Massachusetts; Mr. Frederic L. Diserens, Cedar Rapids, Iowa; Mr. Paul Houghton, Hedrick, Iowa; Mr. Francis A. Heald, Cedar Rapids, Iowa; Mr. Thomas A. Kingland, Lake Mills, Iowa; Mr. R. A. Lenocker, Dexter, Iowa; Mr. David Meredith, Lynnville, Iowa; Mr. J. B. McHose, Boone, Iowa; Mr. W. S. Reiley, Red Oak, Iowa; Mr. J. W. Reeder, Tipton, Iowa; Mr. Ben R. Reichard, Marion, Iowa; Mr. Horace Warren, Missouri Valley, Iowa; Mr. Omar P. Wyland, Harlan, Iowa; Mr. J. D. Wardle, Cedar Rapids, Iowa; Mr. James M. Wilson, Centerville, Iowa; Mr. Jno. F. D. Aué, Alton, Iowa; Mrs. A. E. Chesley, Iowa City, Iowa; Mr. John Towner Frederick, Corning, Iowa; Mr. Cassius M. Greene, Greene, Iowa; Mr. George E. Hilsinger, Sabula, Iowa; Mr. O. H. Seifert, Eddyville, Iowa; Mr. Carl Stanley, Corning, Iowa; Mr. Benjamin A. Wallace, Rockford, Iowa; Mr. H. L. Waterman, Ottumwa, Iowa; and Dr. Charles S. Grant, Iowa City, Iowa.

#### RESEARCH WORK IN THE SOCIETY

Following the plan adopted last year the rooms of The State Historical Society of Iowa are once more the scene of great activity during the present summer months. Research work along many lines is being carried on under the direction of the Superintendent by men from a number of schools and colleges in Iowa and other States. Six Research Associates have been appointed and will spend the greater part of the summer in residence at Iowa City. Professor E. H. Downey of Kenyon College, Gambier, Ohio, is completing his study of the history of employers' liability and workingmen's compensation in Iowa, and is also investigating the subject of the control of public utilities in Iowa. Dr. John E. Brindley of Iowa State College at Ames, and Secretary of the Iowa Tax Commission, has nearly completed a monograph on the history of road legislation in Iowa. Mr. Jacob Van der Zee, having completed his volume on *The Hollanders of Iowa*, is making investigations along various lines in early Iowa history. A study of the problem of poor relief in Iowa is being made by Professor J. L.

Gillin, who has recently accepted an associate professorship in the University of Wisconsin. Dr. Clarence Ray Aurner has completed his *History of Township Government in Iowa* and has begun work on a comprehensive history of education in Iowa to which he will probably devote his time for at least two years. Dr. Louis Pelzer of the State University of Iowa is engaged in several lines of research into the early history of the Mississippi Valley, which of course includes the history of Iowa.

Seven Research Assistants have also been appointed and are carrying on research work for the Society. Professor F. H. Garver of the Montana State Normal College at Dillon, Montana, will complete his history of county government in Iowa. Work on the history of congressional elections in Iowa is being carried on by Professor L. B. Schmidt of the Iowa State College at Ames. Mr. Louis T. Jones of Penn College is continuing his study of the Quakers in Iowa. A monograph dealing with the famous extradition case of Barclay Coppoc has practically been completed by Mr. Thomas Teakle of Pocatello, Idaho. Later in the summer Professor Olynthus B. Clark of Drake University will come to Iowa City to devote several weeks to the history of Iowa politics during the period of the Civil War and Reconstruction. Mr. Henry J. Peterson of the Iowa State Teachers College at Cedar Falls will continue his work on the subject of corrupt practice legislation in Iowa. Professor F. E. Haynes of Morningside College will also come to Iowa City in August and devote some time to research work for the Society.

In addition to these lines of research the subject of the history of municipal government in Iowa is being investigated by Dr. Frank E. Horack, the Secretary of the Society. Mr. Clifford Powell, the General Assistant in the Society, is continuing his *History of the Codes of Iowa Law*. A history of the settlement of Iowa has been begun by Dr. Dan E. Clark, the Assistant Editor.

The results of all this research work will eventually be published by the Society, thereby not only adding to the literature and knowledge of Iowa history, but, it is believed, furnishing information which may be applied to the solution of present-day problems.

## NOTES AND COMMENT

The eighteenth annual meeting of the Iowa State Bar Association was held at Cedar Rapids on June 27th and 28th.

The third International Congress of Archaeologists will be held in Rome during the week of October 9 to 16, 1912.

The twenty-sixth annual convention of the Iowa Bankers Association was held at Cedar Rapids on June 5th and 6th.

The fifth annual meeting of the National Assembly of Civil Service Commissioners was held on June 21st and 22nd at Spokane, Washington.

September 10-12 are the dates for the meeting of the International Association for Labor Legislation, which will be held at Zurich, Switzerland.

Professor Karl F. Geiser, formerly of the Iowa State Teachers College and now of Oberlin College, is giving instruction at the University of Illinois during the summer session.

Professor John H. Gray of the University of Minnesota is in charge of an investigation of methods of control of public utilities, which is being conducted by the National Civic Federation.

An international academy for the study of international law and allied subjects, the sessions of which will be held during the summer months, will be established at The Hague by the Carnegie Endowment for International Peace.

At the session of the legislature of the State of Wisconsin in 1911 a State Board of Public Affairs was created. While the work of the Board has to do largely with the financial affairs of the State, it is directing investigations of the school system, of immigration to Wisconsin, and of the problems of coöperation and markets.

The annual meeting of the National Municipal League was held at Los Angeles from July 8th to 12th. Among the subjects discussed by various speakers were commission government for cities, expert assistance in municipal affairs, the regulation of public utilities, the operation of the initiative and the recall in cities, and the effect of woman suffrage in municipal affairs.

Indications of an increased interest in efficient and intelligent municipal government are to be found in the various State conferences which have been held. Delegates from a large number of Ohio cities met at Columbus on January 24th and 25th. At Albany, New York, on January 12th, an organization known as the Municipal Government Association of New York was formed. Municipal conferences were held at Lancaster, Pennsylvania, on January 18th and 19th, and at Trenton, New Jersey, on January 3rd.

## CONTRIBUTORS

**CLIFFORD POWELL**, General Assistant in The State Historical Society of Iowa. (See *THE IOWA JOURNAL OF HISTORY AND POLITICS* for January, 1911, p. 149.)

**JACOB VAN DER ZEE**, Research Associate in The State Historical Society of Iowa. (See *THE IOWA JOURNAL OF HISTORY AND POLITICS* for October, 1911, p. 607.)

**PAUL R. ABRAMS**, Student in the College of Law of the State University of Iowa. Born on December 21, 1890, at Audubon, Iowa. Graduated in 1908 from the Iowa City High School. Graduated in 1912 from the College of Liberal Arts of the State University of Iowa.

**THOMAS JULIAN BRYANT**, Member of The State Historical Society of Iowa. Member of the State Historical Society of Missouri. Born April 27, 1873, at Ashgrove, Iowa. Graduated from the Southern Iowa Normal at Bloomfield in 1892, with the degree of B. S. Graduated from the Law Department of Drake University in 1896.

**THE IOWA JOURNAL OF HISTORY AND POLITICS**

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# HISTORY OF CONGRESSIONAL ELECTIONS IN IOWA

## INTRODUCTION

The history of congressional elections in Iowa may be divided into three distinct periods. The first period dates from 1846, when Iowa was admitted into the Union with two seats in the House of Representatives, to 1862, when the number of Representatives was increased from two to six. The second period dates from the reapportionment of 1862 to the year 1886, when the eleven Congressional districts of the State were established precisely as they are to-day. During this second period the number of Representatives was increased from six to nine in 1872 and from nine to eleven in 1882. The third period extends from 1886 to the present time.

In this monograph it is proposed (1) to review the laws of Congress and of the General Assembly of Iowa governing congressional elections in Iowa, (2) to analyze the national issues which constitute the real basis of party organization in Iowa, and (3) to give an account of congressional conventions, campaigns, and elections in Iowa. Considerable attention will be given to the various candidates for Congress and the platforms on which they were nominated, to the proceedings of conventions, to the method of conducting campaigns, and to the significance of election results. The record of Iowa Representatives in Congress will also be considered in so far as that record may have a bearing on the history of congressional elections in Iowa.

Although the Iowa country had passed under several national and local jurisdictions from the time of its explora-

tion by Marquette and Joliet in 1673,<sup>1</sup> its local history possesses little real political significance prior to 1833.<sup>2</sup> In fact the Indians remained in possession of the country until September, 1832, when their title to the eastern portion was extinguished by the terms of the treaty which closed the Black Hawk War.<sup>3</sup> The treaty of 1832 opened the Iowa country to a rapid inroad of permanent settlers from all parts of the Union. Congress soon recognized the necessity of giving these trans-Mississippi settlers some sort of political organization through which their public affairs could be regulated. Accordingly, by an act of June 28, 1834,<sup>4</sup> the area west of the Mississippi River and north of the State of Missouri was annexed to the Territory of Michigan<sup>5</sup> "for the purpose of temporary government". This act provided that the inhabitants of the Iowa country should "be entitled to the same privileges and immunities, and be subject to the same laws, rules, and regulations, in all respects, as the other citizens of Michigan Territory."

In September, 1834, the Governor and Legislative Council of Michigan Territory made provision for local government in the Iowa country by organizing the region to which the Indian title had been extinguished by the treaty of 1832 into the counties of Dubuque and Des Moines and the townships of Julien and Flint Hill.<sup>6</sup> A serious effort was made to render this new political organization west of the Mississippi adequately effective; but at the end of two years the pioneers of Iowa still found themselves largely without the

<sup>1</sup> Weld's *Joliet and Marquette* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. I, p. 6.

<sup>2</sup> Shambaugh's *History of the Constitutions of Iowa*, Chapter V.

<sup>3</sup> Kappler's *Indian Affairs, Laws and Treaties*, Vol. II, pp. 349-351.

<sup>4</sup> *United States Statutes at Large*, Vol. IV, p. 701.

<sup>5</sup> Established by act of Congress of January 11, 1805.—*United States Statutes at Large*, Vol. II, p. 309.

<sup>6</sup> *Laws of the Territory of Michigan*, Vol. III, p. 1326.

necessary protection of organized government: indeed the Territory of Michigan was unable to give its western borders the attention demanded.<sup>7</sup> The settlers declared that "the only government and laws they knew or cared anything about in those days were the organization and rules of the claim club".<sup>8</sup> Thus organized Territorial government in Iowa during the period 1834-1836 "while nominally real was in reality only nominal", and Congress, recognizing the true situation, established the original Territory of Wisconsin in 1836.<sup>9</sup>

The Organic Act creating the Territory of Wisconsin, which went into effect on July 4, 1836, provided "That a Delegate to the House of Representatives of the United States, to serve for the term of two years, may be elected by the voters qualified to elect members of the Legislative Assembly, who shall be entitled to the same rights and privileges as have been granted to the Delegates from the Territories of the United States to the said House of Representatives." The time, place, and manner of holding the first election was to be determined by the Governor, and thereafter by the Legislative Assembly.<sup>10</sup>

In accordance with the provisions of the Organic Act Governor Henry Dodge issued a proclamation directing the first general election in the Territory of Wisconsin to be held on October 10, 1836.<sup>11</sup> George W. Jones and Moses Meeker at once announced themselves as candidates for the

<sup>7</sup> Shambaugh's *History of the Constitutions of Iowa*, pp. 68-76.

<sup>8</sup> Shambaugh's *History of the Constitutions of Iowa*, p. 76.

<sup>9</sup> *United States Statutes at Large*, Vol. V, p. 10.

<sup>10</sup> For a history of political parties in Iowa during the Territorial period see Pelzer's *The History and Principles of the Whigs of the Territory of Iowa* and *The History and Principles of the Democratic Party of the Territory of Iowa* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. V, pp. 46-90, and Vol. VI, pp. 3-54.

<sup>11</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, p. 51.

office of Delegate to Congress.<sup>12</sup> Party lines and issues not having as yet been definitely drawn, local and personal considerations prevailed largely in the brief, though spirited, contest which followed. The past record of Jones commended him to the favor of the people, and he was elected. During the ensuing two years Delegate Jones labored diligently in the interests of the frontier population which he represented — securing appropriations, a preëmption law, and finally an act dividing the original Territory of Wisconsin and establishing the separate Territory of Iowa.<sup>13</sup>

The Organic Act of the Territory of Iowa went into effect on July 4, 1838.<sup>14</sup> In both form and content it is almost an exact reproduction of the Organic Act of the original Territory of Wisconsin. The provisions relative to the Delegate to Congress are identical. The Territorial Delegate, who was to be elected every two years by the qualified voters of the Territory, had the right to speak on any question in the House of Representatives, but could not vote. He was the sole representative of the Territory in Congress.

Robert Lucas, first Governor of the Territory of Iowa, issued a proclamation for the first general election to be held on September 10, 1838.<sup>15</sup> Among the candidates who presented themselves for the office of Delegate to Congress were George W. Jones and William W. Chapman. At the close of a vigorous campaign in which local and personal considerations again prevailed, Chapman was elected. Mr. Chapman held the office of Delegate for two years,

<sup>12</sup> For an account of the origin of Territorial representation in Congress and of the Delegates who represented Iowa during the Territorial period, see Colgrove's *The Delegates to Congress from the Territory of Iowa* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. VII, pp. 230-265.

<sup>13</sup> For an account of the establishment of the Territory of Iowa see Shambaugh's *History of the Constitutions of Iowa*, Chapter VI.

<sup>14</sup> *United States Statutes at Large*, Vol. V, p. 235.

<sup>15</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, pp. 209-212.

during which he gave active attention to the business of the Territory including such questions as "disputed land claims, preëmption rights, the survey and sale of the public lands, the securing of appropriations to build roads, bridges, and public buildings, and grants of the public domain for educational and local government purposes."<sup>16</sup>

The next election of Territorial Delegate occurred in 1840 — the transition year in Iowa Territorial politics. This was the year of the Harrison-Tyler campaign — the most enthusiastic and picturesque presidential campaign in American history.<sup>17</sup> Although Iowa Territory had no part in the national election, the excitement of the campaign influenced local politics perceptibly. Local campaign clubs were formed; party lines were more definitely drawn; Whig and Democratic organizations were effected; candidates for Territorial offices grouped themselves according to parties; and national questions became the subject-matter of local campaign speeches and newspaper discussions. Territorial politics now took definite shape with the Democratic party in the ascendancy — a position which it was destined to hold throughout the remainder of the Territorial period.

The candidates for the office of Territorial Delegate in 1840 were Alfred Rich, who was nominated by the Whigs; Augustus Caesar Dodge, who was nominated by the Democrats; and William W. Chapman, who announced himself as an independent candidate when he saw himself superseded by Dodge in the organization of the Democratic party. The campaign which ensued partook of the enthusiasm which characterized national politics of this year. At the election which was held on October 5th, Dodge was elected for a term

<sup>16</sup> Colgrove's *The Delegates to Congress from the Territory of Iowa* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. VII, p. 244.

<sup>17</sup> For a discussion of the presidential campaign of 1840 see Stanwood's *History of the Presidency*, Chapter XVI.

which expired on March 4, 1841, as provided by act of Congress of March 3, 1839. Elections of Territorial Delegates occurring thereafter in the odd instead of the even years, Dodge again became a candidate for the office in 1841. He was nominated by his party and reëlected over his Whig opponent, Mr. Rich. Dodge's two-year term expired in 1843. Reëlected in that year, and again in 1845, Dodge held the office of Territorial Delegate until Iowa was admitted into the Union on December 28, 1846.<sup>18</sup>

During the six years of his career as Delegate to Congress from the Territory of Iowa, Dodge attended to the complex duties imposed on him with diligence and success. Among the matters requiring thoughtful consideration were congressional appropriations for internal improvements and other purposes,<sup>19</sup> the Missouri-Iowa boundary dispute,<sup>20</sup> and the admission of Iowa into the Union.<sup>21</sup> As a Territorial Delegate, Dodge labored under the disadvantage of not having membership on any committee; nor did he have the power of voting on any bill. In spite of these handicaps, he nevertheless secured concessions which mark him as a man of accomplishment.

Thus the Territorial period is important as the period of political beginnings. Political parties and party machinery are introduced and established during these early years. National issues are carried into the arena of Iowa politics and constitute the real basis on which political parties in the Territory are formed. Protective Tariff, United States Bank, Internal Improvements, Public Land Question, Oregon Question, Mexican War — all these subjects receive

<sup>18</sup> Pelzer's *Augustus Caesar Dodge* in *The Iowa Biographical Series*, Chapter V.

<sup>19</sup> Pelzer's *Augustus Caesar Dodge*, Chapter VII.

<sup>20</sup> Pelzer's *Augustus Caesar Dodge*, Chapter VI.

<sup>21</sup> Pelzer's *Augustus Caesar Dodge*, Chapter VIII.

their full measure of consideration. Democratic and Whig policies are reviewed. Party leaders are praised and condemned. The Democratic party secures the ascendancy during this period, and so Iowa is ushered into the Union under Democratic control. Finally, it may be said that Iowa undergoes the political training and preparation necessary for the part which the State is thereafter to play in national politics.

#### THE CONGRESSIONAL ELECTION OF 1846

The admission of Iowa into the Federal Union in 1846 conferred upon the people of the State the right to elect Representatives who could not only participate in the discussions of the House, but also vote upon proposed legislation. All regulations relative to congressional elections whether made by Congress or by the State legislature must conform to the Constitution of the United States which contains the following provisions:

“The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.”

“No person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.”

“Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers.”

“The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may

at any time by law make or alter such regulations, except as to the places of choosing Senators."

"When vacancies happen in the representation from any State the Executive authority thereof shall issue writs of election to fill such vacancies."<sup>22</sup>

The only legislation Congress had enacted in reference to the election of Representatives prior to the admission of Iowa into the Union in 1846 was an act passed on June 25, 1842, requiring the States to elect Congressmen by districts. This act provided that "in every case where a State is entitled to more than one Representative, the number to which each State shall be entitled . . . shall be elected by districts composed of contiguous territory equal in number to the number of Representatives to which said State may be entitled, no one district electing more than one Representative."<sup>23</sup> But the times, the places, and the manner of holding the elections were still under State regulation. Should any State fail to enact the necessary legislation it would simply be without representation in the House of Representatives.

Having anticipated the admission of Iowa into the Union Congress passed an act on August 4, 1846, providing "that until the next census and apportionment shall be made, the State of Iowa shall be entitled to two representatives in the House of Representatives of the United States."<sup>24</sup> Thus it became the duty of the legislature of Iowa to divide the State into two congressional districts and to provide for an election in each district. In order, however, that Iowa might be represented in Congress immediately upon its formal admission into the Union, it was provided in the State Constitution that the first election of Representa-

<sup>22</sup> *Constitution of the United States*, Article I.

<sup>23</sup> *United States Statutes at Large*, Vol. V, p. 491.

<sup>24</sup> *United States Statutes at Large*, Vol. IX, p. 52.

tives should be held at the same time as the election of members of the General Assembly and other State officers.<sup>25</sup> Iowa's first Congressmen were, therefore, to be elected at large instead of by districts.

The Constitution of Iowa, prescribing the limits of the State as they exist to-day, was adopted by the voters of the Territory on August 3, 1846.<sup>26</sup> It was understood that Iowa would in all probability be admitted into the Union during the ensuing session of Congress. The people of the prospective State therefore turned their attention to the coming election of State and national officers. In accordance with the powers vested in him by the Constitution of 1846, Governor Clarke issued a proclamation on September 9th, directing the first State election to be held on Monday, October 26, 1846. The proclamation provided that the two Representatives in Congress were to be chosen at this time; it enumerated the various State officers to be elected, including members of the State Senate and House of Representatives; and it directed that the elections were "to be conducted in all respects according to the existing

<sup>25</sup> *Constitution of Iowa* (1846), Article XIII, Section 6.

This section makes the following provisions governing the first general election: "The first general election under this constitution shall be held at such time as the Governor of the Territory, by proclamation, may appoint, within three months after its adoption, for the election of a Governor, two Representatives in the Congress of the United States (unless Congress shall provide for the election of one Representative,) members of the General Assembly, and one Auditor, Treasurer, and Secretary of State. Said election shall be conducted in accordance with the existing laws of this Territory; and said Governor, Representatives in the Congress of the United States, Auditor, Treasurer, and Secretary of State, duly elected at said election, shall continue to discharge the duties of their respective offices for the time prescribed by this constitution, and until their successors are elected and qualified. The returns of said election shall be made in conformity to the existing laws of this Territory."—Quoted from Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, p. 209.

<sup>26</sup> Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, p. 213.

laws of the Territory, except only in such cases as the same may be found to conflict with the Constitution under which the election will be held."<sup>27</sup>

Thus it is apparent that the congressional and State elections of 1846 are so intimately connected that it would be difficult if not altogether impossible to keep them separate in any discussion of the political campaign of that year. Indeed, so intertwined are the two elections that a discussion of one becomes in part at least a history of the other. While it is true that political parties in Iowa divided on national issues as shown by newspaper discussions and the party platforms of 1846, it is to be remembered that these issues were dominant in both the State and congressional campaigns of that year and that local issues received practically no consideration.

In the meantime the campaign for the election of members of Congress was inaugurated. "The citizens of Iowa will soon be called upon", said *The Iowa Standard*, "to elect one, if not two persons, to represent the State of Iowa in the House of Representatives of the Congress of the United States. Care should be taken to elect men of talent and integrity, and whose political views accord with those of a majority of the people they seek to represent. What are the views and opinions of the people of Iowa on the great leading political questions which have been the subject of discussion in the present Congress?" This organ further advised: "Let no candidate be voted for unless he clearly and explicitly makes known his views on these and other questions, in which the people of Iowa are vitally interested."<sup>28</sup>

<sup>27</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, p. 359. See also Peterson's *The Regulation by Law of Elections in the Territory of Iowa* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol V, pp. 493-533.

<sup>28</sup> *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 10, August 19, 1846.

The Democratic and Whig organizations immediately began an active, though short, campaign for the October elections. Party machinery was put into operation. Township caucuses were summoned and delegates nominated to the county conventions. County conventions were called and delegates chosen to the State conventions. State conventions were assembled, nominations for State and national offices were made, and party platforms were adopted.

Pursuant to the call of the Democratic Territorial Committee, the first Democratic State Convention assembled at Iowa City on September 24, 1846.<sup>29</sup> It was composed of delegates chosen by the county conventions, each county being entitled to one delegate for every one hundred voters. Temporary and permanent organizations were effected and committees on credentials and on resolutions were appointed. Shepherd Leffler of Des Moines County and S. C. Hastings of Muscatine County were nominated for Congress. Comparatively little interest was manifested in local politics. The following resolutions, presented by the Committee on Resolutions and adopted by the Convention as the platform of the Democratic party in the campaign of 1846, sum up the position of the party on national issues in this period:

1. *Resolved*, That the conduct of James K. Polk, since he has been President of the United States, and particularly during the last session of Congress, has been that of an unwavering and unflinching Democrat. That young hickory has proved himself to be a true scion of old hickory; and we tender to him and to his coadjutors in the executive department the gratitude of the people of the State of Iowa.

2. *Resolved*, That the recent session of Congress has been one of

<sup>29</sup> *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 16, September 30, 1846. The writer has not been able to find a complete account of the proceedings of this Convention.

the greatest importance to the people of these United States, since the time of Mr. Jefferson, and we confidently regard the acts passed by it, particularly the passage of the Independent Treasury Bill, the settlement of the Oregon Question (though the people of Iowa would have preferred 54, 40), and the repeal of the odious tariff act of 1842, as destined to advance the welfare, promote the interest, and add to the peace and harmony, not only of our people, but of the civilized world.

3. *Resolved*, That the repeal of the unjust, unequal, and fraudulent tariff act of 1842, at the recent session of Congress, deserves the highest praise from the people of Iowa, and entitles those members of Congress who voted for it, to the lasting gratitude of all good citizens. That by its minimum and specific duties — by its unequal and unjust protection of the capitalists and moneyed institutions, and by its casting the burden of taxation on the laboring masses, and exempting the upper ten thousand, it was absolutely a federal tariff, based on the doctrines of the great God-like Belshazzar of Massachusetts, viz: "Let the government take care of the rich, and the rich take care of the poor." That the conduct of the Vice-President of the United States, upon that great question of the age, entitles him to the highest place in the confidence of the Democracy of the United States.

4. *Resolved*, That all modes of raising revenue for the support of government, are taxes upon the capital, labor and industry of the country; and that it is the duty of a good government to impose its taxes in such a manner as to bear equally on all classes of society; and that any government, which, in levying duties for raising revenue, impresses burdens on any one class of society, to build up others, though republican in form, is tyrannical in deed, ceases to be a just government, and is unworthy of the confidence or support of a free people.

5. *Resolved*, That the separation of the public moneys from the banking institutions of the country, in the passage of the Independent Treasury Bill, meets the approbation of this convention, and the recent vote of the people of this State, adopting the constitution, is a decisive indication of public sentiment against all banking institutions of whatever name, nature, or description.

6. *Resolved*, That the repeated unjust aggression of the Mexican people and Mexican government, have long since called for redress,

and the spirit which has discouraged, opposes and denounces the war which our government is now carrying on against Mexico, is the same spirit which opposed the formation of a republican government, opposed Jefferson, and denounced the last war with Great Britain, and now, as they did then, from a federal fountain.

7. *Resolved*, That General Taylor and our little army have won for themselves the everlasting gratitude of the country, for which they will never, like Scott, be exposed to a shot in their rear from Washington, or any other part of the country.

8. *Resolved*, That we repudiate the idea of party without principles; that Democracy has certain fixed and unalterable principles, among which are equal rights and equal protection to all, unlimited rights of suffrage to every freeman, no property qualifications or religious tests, sovereignty of the people, subjection of the Legislature to the will of the people; obedience to the instructions of constituents or resignation; and restriction of all exclusive privileges to corporations to a level with individual rights.

9. *Resolved*, That, henceforth, as a political party, we are determined to know nothing but Democracy; and that we will support men only for their principles. Our motto will be, less legislation, few laws, strict obedience, short sessions, light taxes, and no State debt.<sup>30</sup>

The candidates nominated for Congress by the Democrats had already achieved considerable distinction in Iowa politics. Shepherd Leffler had been a member of the Constitutional Conventions of 1844 and 1846. In 1839 he was elected a Representative in the Legislative Assembly of the Territory of Iowa, an office to which he was reëlected in 1841. The following year he was elected a member of the Council where he served until Iowa was admitted into the Union. Mr. Leffler received a common school education in Pennsylvania, where he was born in 1814, and at Steubenville, Ohio. He then began the study of law and at the age of twenty-one emigrated to the West. He came to the Iowa country in 1835, locating at Burlington, then a frontier vil-

<sup>30</sup> Fairall's *Manual of Iowa Politics*, Vol. I, pp. 17, 18.

lage of log cabins. He was one of the trusted leaders of the Democratic party as long as that party controlled Territorial and State politics. In 1875, he was nominated for Governor by the Democratic State Convention, but was defeated by Samuel J. Kirkwood.<sup>31</sup>

S. C. Hastings, the other Democratic candidate at large for Congress, was born in New York in 1814. He received a liberal education and at the age of twenty was made Principal of Norwich Academy. In 1834 he went to Lawrenceberg, Indiana, where he studied law and was admitted to the bar. He was editor of the *Indiana Signal* in the presidential campaign of 1836 and was a supporter of Van Buren in this campaign. In 1837 he removed to Muscatine where he began the practice of law. He was elected a Representative in the Legislative Assembly of the Territory of Iowa in 1838 and again in 1839. In 1840 he was elected a member of the Territorial Council, where he served in the Third, Fourth, Seventh, and Eighth Legislative Assemblies. He was chosen President of the Council in 1845. Mr. Hastings exercised considerable influence in framing the laws of the Territory. He assisted in the compilation of the "Blue Book" of Iowa laws, being associated in this work with James W. Grimes. He was also commander of several companies of militia, having the rank of Major in the Missouri-Iowa boundary dispute. Mr. Hastings was later appointed Chief Justice of the Supreme Court of Iowa in 1848; and upon removing to California in 1849 was elected Attorney General and then Chief Justice of that State.<sup>32</sup>

The Democrats, however, were not to elect their candidates without vigorous opposition on the part of the Whigs, who in the meantime had put their party machinery into

<sup>31</sup> Gue's *History of Iowa*, Vol. IV, p. 167.

<sup>32</sup> *Annals of Iowa* (First Series), Vol. X, pp. 100-107; and Gue's *History of Iowa*, Vol. IV, pp. 120, 121.

operation. On August 26, 1846, the Whig Territorial Committee issued a call for a Whig State Convention to be held in Iowa City on Friday, September 25th. The Whigs of the various counties were requested to appoint delegates to represent them in this convention, each county being entitled to one delegate for every one hundred voters.<sup>33</sup>

The first Whig State Convention met accordingly at the appointed time and place. A temporary organization was effected by the appointment of William G. Woodward of Muscatine County as Chairman, and H. S. Finley of Scott County as Secretary. The Convention passed resolutions directing the Chairman to appoint the following committees: committee on permanent officers, committee on credentials, and committee on resolutions. The committees being duly appointed, the Convention adjourned till two o'clock in the afternoon.

In the afternoon when the Convention had assembled pursuant to adjournment, the committee on permanent officers reported the following nominations: President, R. P. Lowe of Muscatine County; Vice Presidents, N. Myer of Van Buren County and George H. Walworth of Jones County; Secretaries, George Partridge of Des Moines County and William H. Tuthill of Cedar County. The report was adopted unanimously. The committee on credentials then reported the number of members to which each county was entitled in the Convention and offered the following resolution which was unanimously adopted:

Resolved: That the Convention now proceed to ballot for candidates for nomination in the following order. 1st for Governor, 2d for members of Congress, 3rd one Secretary of State, 4th one Auditor, 5th one State Treasurer, and that the counties be called in order and that the delegates from each county be allowed to vote so far as present in person or substitute.

<sup>33</sup> *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 11, August 26, 1846.

The records show that Joseph H. Hedrick of Wapello County, and G. C. R. Mitchell of Scott County, were nominated for Congress by the unanimous vote of the Convention. A Whig State Executive Committee and a committee to prepare an address to the people of Iowa were also appointed.

Gilbert C. R. Mitchell, who achieved considerable local distinction as a jurist, was born in East Tennessee in 1803. He was educated at East Tennessee College in Knoxville, Tennessee. He then studied law in Alabama and, being admitted to the bar in 1825, practiced law in that State until 1834 when he came to Iowa. He practiced law in Dubuque from 1835 to 1837 and in Davenport from 1837 to 1843, whereupon he was elected a Representative in the Legislative Assembly of the Territory of Iowa. Mr. Mitchell was elected Mayor of Davenport in 1856 and Judge of the Fourteenth Judicial District in 1857. Judge Mitchell was always a Whig until that party was dissolved, whereupon he allied himself with the Democratic party. He is described by a contemporary as "a keen, careful analyst, and one whose deductions are always reliably correct. . . . If he has one trait more prominent than another it is his thorough *comprehensiveness*—his ability to include everything in his examination of a subject. . . . Fresh, instructive and engaging in his conversation he takes high rank as a social companion, and as one who can be instructive, amusing and brilliant, without effort."<sup>84</sup>

Joseph H. Hedrick is described as a man who "is well and favorably known in the Southern portion of the Territory. He represented the county of Wapello in the last convention, for the formation of the Constitution of Iowa; and left with increased reputation, as a sound and practical

<sup>84</sup> F. B. Wilkie in *Davenport Past and Present*, quoted in the *Annals of Iowa* (First Series), Vol. II, pp. 262, 263.

statesman, a ready debater, a shrewd political tactician,—and as an uncompromising Whig, of the old Whig School. Mr. Hedrick is a farmer, is in the prime of life. . . . And we say to our Whig friends, who do not know him he's of the right stripe."<sup>35</sup>

The nomination of candidates having been completed, the following resolutions, upon recommendation of the committee, were adopted unanimously by the Convention as the platform of the Whig party:

*Resolved*, That we consider it our duty, imperative and binding on us as Whigs to effect a thorough organization of our party, and by the use of all honorable means faithfully and diligently strive to ensure the success of our political principles.

*Resolved*, That we, as Whigs of the State of Iowa, do proudly and unhesitatingly proclaim to the world the following distinctive and leading principles, that we as a party avow and advocate, and which we honestly believe if carried out, will restore our beloved country and its institutions to their former purity and prosperity.

1. A *sound National Currency*, regulated by the will and authority of the people.

2. An adequate Revenue derived from a *Tariff* upon foreign productions with fair *protection to American Industry*.

3. *Just restraints on the Executive power*, more especially a further restriction upon the exercise of the Veto.

4. An equitable *distribution of the proceeds of the public lands* among the States.

5. One Presidential Term.

6. Expending the surplus revenue in *National Improvements* that will embrace the great rivers, lake and main arteries of communication throughout our country, thus securing the *most efficient means of defence in war*, and the cheapest and best system of social and *commercial intercourse in peace*.

*Resolved*, that the re-enactment of the *thrice condemned Sub-Treasury Bill*, which will have the effect of draining all coin from circulation and locking it up in the Vaults and Safes of the General

<sup>35</sup> *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 18, October 14, 1846.

Government — the passage of McKay's *British Tariff*, discriminating in favor of *foreign* and against *American* labor — thus depriving or materially injuring the farmer's legitimate market, a *home market*, and the Executive *Veto of the River and Harbor Bill*, cutting off the western farmer's hope of transporting his surplus produce to market — poor as that market is now rendered — should consign the present Administration "to a condemnation so deep, that the hand of political resurrection could not reach it."

*Resolved*, That "we hold these truths to be self evident" that the 49th degree of north latitude is not 54 deg. 40 min.— that Jas. K. Polk's *Kane letter* was a deception and falsehood of such a character that none but the basest and most dishonorable minds would resort to — that *McKay's Tariff* is not "a judicious revenue tariff, affording incidental protection to American Industry"— that the *annexation of Texas* is not a *peaceful acquisition* — that "Lamp-black and rags", though called *Treasury Drafts* and drawn on a bankrupt treasury, are not "the *Constitutional Currency*" and that *Loco Focoism is not Democracy*.

*Resolved*, That we believe the American System of Henry Clay as exemplified in the Tariff of 1842 is essential to the well-being and existence of the *domestic industry* of the United States, and thus conducive to morality, Independence and Happiness; that in its *protection of Home Manufactures and domestic produce* it nerves the arm of the Farmer — makes glad the heart of the Mechanic and Manufacturer, and affords a Home market for the produce of their toils; and withal has been found by the test of experience to be the only permanent check on the excessive importations of former years, which have been the principal cause of Hard Times, Repudiation, Bankruptcy and dishonor.

*Resolved*, That we regard the adoption of the Constitution at the recent election, from the ultra partizan character of some of its provisions, as an event not calculated to promote the future welfare and prosperity of the State of Iowa; and that it is our imperative duty to procure its speedy amendment.

*Resolved*, That we pledge ourselves to use our most strenuous exertions to keep up a thorough and complete organization of the Whig party in Iowa. Sincerely believing in the purity of our motives and the justness of our cause, and that although our opponents erroneously claim, as we believe the advantage in numbers,

yet we more particularly rely upon the superiority of our principles, and though ignorance and prejudice may for a time prevail, yet we have full and implicit confidence in the dawning of a brighter day, when the clouds and darkness of Loco-focoism will be dispelled by the cheering rays and invigorating influence of *Truth* and *Knowledge*, all-powerful and omnipotent.

*Resolved*, That we recommend to the support of the people of Iowa at the coming election, the ticket nominated by this Convention, that we believe the candidates to be good men and true, and that the members of this Convention in behalf of those for whom they act, pledge to them a cordial and zealous support.

*Resolved*, That the thanks of this Convention be tendered to Gen. R. P. Lowe for the able and impartial manner in which he has presided over its deliberations, and the Secretaries, Messrs. Partridge and Tuthill for their fidelity and promptness in the despatch of business.

*Resolved*, That the proceedings of this Convention be signed by the presiding officers and published in the Whig papers throughout the Territory.<sup>36</sup>

The Whig and Democratic platforms of 1846 have been given in full inasmuch as they present fully the relative positions of the two parties on national questions when Iowa was admitted into the Union. It will be observed that banking, the tariff, internal improvements, the Oregon question, and the Mexican War constitute the leading issues and that political parties in Iowa reflect the attitude of the national parties on these issues. It was on these issues that the first congressional campaign in Iowa history was centered.

The party platforms having been announced and the candidates for Congress and the various State offices selected, the campaign opened with vigor and enthusiasm. Denunciation and recrimination were exchanged by the party organs. *The Iowa Standard* on October 7th contained a

<sup>36</sup> *The Davenport Gazette*, Vol. VI, No. 7, October 8, 1836. See also *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 16, September 30, 1846; and Fairall's *Manual of Iowa Politics*, Vol. I, pp. 16, 17.

long editorial of four and a half columns in severe arraignment of the Democratic platform. "If our readers will refer to the preceding resolutions", concluded the editorial, "they will find that the Convention endorsed, and approved, all the official acts of Polk, and his Locofoco friends, during the late session of Congress. These are to be used out of Iowa as the sentiments of the Iowa democracy."<sup>37</sup> Again this organ argued: "If the nominal Democrats oppose a protective tariff — the improvement of our rivers and harbors, and other measures known and acknowledged to be democratic, and the Whigs advocate these things, who are the Democrats, the Republicans, the Americans? Vote not for the Whigs, because that is their party name, but because of the principles they espouse, the measures they advocate."<sup>38</sup>

The Democrats were equally zealous in the defense of their party principles and in the arraignment of their opponents. They condemned the Whig policies as tending to favor government for the classes and not for the masses. The candidates for Congress were also active in the campaign, but no record has been found of any speeches delivered by them in the brief interval that remained before the election. The newspapers were in fact the chief agencies in reaching the people and they reflected as well as directed the sentiments and opinions of the people on the issues in the campaign.

The election was held on October 26th. The returns showed that the Democrats had elected their candidates for Congress by slight majorities, the votes for the respective candidates being recorded as follows: Shepherd Leffler,

<sup>37</sup> *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 17, October 7, 1846.

<sup>38</sup> *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 18, October 14, 1846.

6830; S. C. Hastings, 6744; G. C. R. Mitchell, 6379; Joseph H. Hedrick, 6425. The Democrats also elected their entire State ticket by about the same majorities — the smallest majority being that of Ansel Briggs who was elected Governor over his Whig opponent, Thomas McKnight, by a margin of only 161 votes.<sup>39</sup> These returns led *The Iowa Standard* to observe that "when the canvass opened, the Locofocos claimed a majority of from 1000 to 1500 in the State, and the Whigs, judging from the former elections, supposed it probable that they would have to overcome a majority of from 700 to 800. All things considered, the Whigs have done well. And if they had had thirty days longer to diffuse Whig truths, they would have carried the entire State ticket. Iowa is this day a Whig State, and we long for an opportunity to test the truth of the assertion."<sup>40</sup>

The election showed in fact that party lines were fairly closely drawn in the congressional campaign of 1846. The Iowa Democracy supported the administration in the prosecution of the Mexican War which was generally known to have been the result of Democratic intrigue for the annexation of Texas; it upheld the reestablishment of the independent treasury — Van Buren's pet system and the only contribution the Democratic party has ever made to the solution of the currency question; it favored the revenue tariff of 1846 which was passed in accordance with the demands of the Southern Democrats; and it accepted the solution of the Oregon question by the establishment of the compromise line of forty-nine degrees, although it favored the line of fifty-four, forty.

The Whigs, on the other hand, opposed the Polk adminis-

<sup>39</sup> Election returns as found in the Archives at Des Moines. *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 25, December 2, 1846, gives the same figures.

<sup>40</sup> *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 25, December 2, 1846.

tration on all these questions. They lamented the war with Mexico; they opposed the independent treasury and the revenue tariff of 1846; and they ridiculed the government for accepting the compromise line of forty-nine degrees in the solution of the Oregon question. On the questions of internal improvements and the disposition of the public domain there was not so much real difference of opinion, for these questions concerned more vitally the material interests of the people of Iowa. Improvement of river navigation, the construction of railroads, and the acquisition of public lands on the easiest terms possible were common needs of the people of Iowa and the two parties tended to unite in their efforts to secure these benefits for the State. Evidence of this fact is contained in the newspapers of the period.<sup>41</sup> But the Democratic party of Iowa was able to hold its forces together and retain the ascendancy which it had gained in the Territorial period and which it was destined to maintain until after the passage of the Kansas-Nebraska Act which disrupted the Iowa Democracy and ushered into power the new Republican party whose supremacy has been almost continuous to the present day.<sup>42</sup>

#### THE CONGRESSIONAL ELECTION OF 1847

"Mr. S. C. HASTINGS and Mr. SHEPHERD LEFFLER, (Democrats,) Representatives from the State of Iowa, presented themselves, and the Speaker administered to them the oath to support the Constitution of the United States, and they took their seats in the House."<sup>43</sup> Thus reads the record showing that the first Congressmen from Iowa were ad-

<sup>41</sup> See for example, *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 15, September 23, 1846.

<sup>42</sup> See Pelzer's *The History and Principles of the Democratic Party of Iowa, 1846-1857* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. VI, pp. 163-246.

<sup>43</sup> *Congressional Globe*, Second Session, Twenty-ninth Congress, p. 95.

mitted to their places in the House of Representatives on December 29, 1846, the day after the formal admission of Iowa into the Union. Elected for the second session of the Twenty-ninth Congress, their terms of office expired on March 4, 1847. The Congressmen who were to succeed Leffler and Hastings were, therefore, to be elected at the August elections in order that they might take their places at the opening of the Thirtieth Congress in the following December.

It will be recalled that the two Congressmen elected in 1846 were elected at large instead of by districts owing to the fact that if Congressmen were not elected until the State legislature should divide the State into congressional districts the State would be unrepresented in the second session of the Twenty-ninth Congress. The First General Assembly was therefore obliged to establish congressional districts before the next election should take place. Accordingly, on February 22, 1847, the General Assembly passed an "Act to divide the State into two Congressional Districts". This act provided that the State "shall be divided into two Congressional Districts, for the election of Representatives in the Congress of the United States, each of which Districts shall be entitled to elect one Representative." The limits of these two districts were designated as follows: the First District included the counties of Lee, Van Buren, Jefferson, Wapello, Davis, Appanoose, Henry, Mahaska, Monroe, Marion, Jasper, Polk, Keokuk, and all the country south of a line drawn from the northwest corner of the county of Polk, running west to the Missouri River; the Second District included the counties of Clayton, Dubuque, Delaware, Jackson, Clinton, Jones, Linn, Poweshiek, Benton, Iowa, Johnson, Cedar, Scott, Muscatine, Washington, Louisa, Des Moines, and all the country north

of a line from the northwest corner of the county of Polk, running west to the Missouri River.<sup>44</sup> (See Map.)

The First District therefore included the southern portion of Iowa and the Second District included the northern portion. A glance at the map of Iowa shows that the First District was considerably smaller than the Second District. This is explained by the fact that northwestern Iowa was more sparsely populated than the eastern part and hence, in order to include an equal portion of the population in each district, the eastern portion of the boundary line was turned southward, thus adding some of the more populous counties to the Second District. The First District, however, had the lead in population by more than 2000; while in the number of voters it had the lead by more than 500 over the Second District.<sup>45</sup> The Democrats were in control in both districts. While the Whigs frequently complained that the Democrats had gerrymandered the State, there are no substantial grounds for the charge. The Whigs, it is true, constituted a very considerable minority, but this minority was so evenly distributed as to make it practically impossible to have formed even one Whig district.<sup>46</sup>

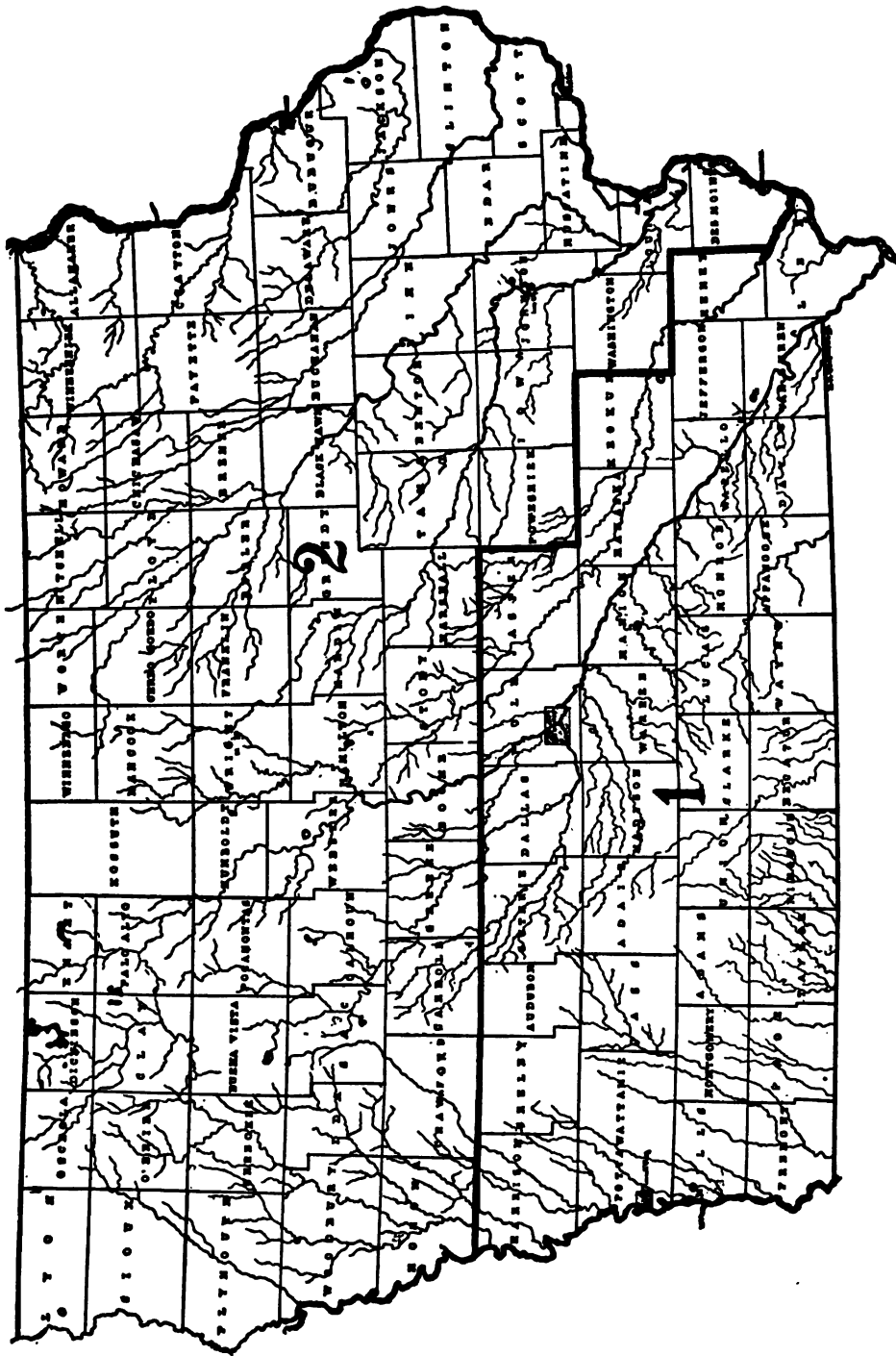
The meeting of the First General Assembly on November 30, 1846, was the beginning of intense party strife which continually grew more embittered as the slavery question

<sup>44</sup> *Laws of Iowa, 1846-1847*, p. 84.

For an account of the establishment of congressional districts in Iowa, see Peirce's *Congressional Districting in Iowa* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. I, pp. 334-361. This account includes also a series of maps showing the congressional districts established from time to time by the General Assembly of Iowa.

<sup>45</sup> Hull's *Historical and Comparative Census of Iowa*, p. 196.

<sup>46</sup> See Peirce's *Congressional Districting in Iowa* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. I, p. 336. See also *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 11, September 15, 1847, which gives the vote for Congressmen cast at the August election of 1847, and shows that a Whig district could have been formed only by the establishment of the most irregular boundary lines.



MAP — ILLUSTRATING FIRST CONGRESSIONAL DISTRICTS IN IOWA

came to a head. The failure of the General Assembly to elect United States Senators<sup>47</sup> and the Mexican War accelerated partisan rivalry which found expression in two great political meetings held in Iowa City while the legislature was in session. The first meeting, composed of the Democratic members of the legislature, assembled in Iowa City on the evening of January 8, 1847, the anniversary of the Battle of New Orleans. Resolutions were prepared by Ver Planck Van Antwerp praising the administration of James K. Polk, eulogizing the services of Andrew Jackson, arraigning Daniel Webster for his Faneuil Hall speech, and denouncing the Whig party.<sup>48</sup> On the following day the Democratic members in the Senate passed resolutions justifying the War with Mexico.<sup>49</sup>

The second meeting, summoned by the Whigs, assembled in Iowa City on the evening of February 22, 1847, the anniversary of the birthday of George Washington. Stephen Whicher of Muscatine County was appointed Chairman. Twenty resolutions were passed praising the patriotism of Washington, defending the Whigs as the friends of popular rights and the opponents of tyranny, and denouncing the doctrines of the Democratic party. The Polk administration was arraigned; and "the recent proposition of our Representatives in Congress to remove the obstructions in the Mississippi river by the donation of the alternate sections of land contiguous to said river" was branded as "a humbug; there not being government land enough in such locality, of sufficient value to pay for the powder that would be required to blast the rocks which compose these obstructions."

The Whigs, on the other hand, expressed themselves in

<sup>47</sup> See Clark's *History of Senatorial Elections in Iowa*, Chapter I.

<sup>48</sup> *The Bloomington Herald*, New Series, Vol. I, No. 35, January 15, 1847.

<sup>49</sup> *Senate Journal*, 1847, pp. 84-88.

favor of "an appropriation out of the National Treasury for the improvement of the Mississippi". The resolutions also reviewed the principles of the Whig party, and mentioned the Wilmot Proviso as meeting "with our marked approbation" and deserving "the thanks of every friend of human progress, civilization and christianity." The conduct of the Democratic party in the State legislature was censured as "only another evidence that they possess no interest in common with the mass of the people"; and finally the name of General Taylor was placed in nomination for the presidency in 1848.<sup>50</sup>

Another meeting of importance was a river and harbor convention held at Bloomington, pursuant to numerous previous notices, on June 4, 1847. Several Democrats were present, among whom was S. C. Hastings. John M. Coleman of Iowa City was appointed President. Nine resolutions favoring the improvement of harbors and rivers of a national character were unanimously adopted. "*Resolved*, That the improvement of the channel of the Mississippi with necessary harbors", reads one resolution, "and the national tributaries as well as all other rivers having a direct bearing upon the national inland commerce of the country, are among the duties of the General Government." A report by a committee in regard to the losses sustained by the citizens of Burlington and vicinity by reason of the obstructions to the navigation in the Mississippi River was read to the convention and ordered to be incorporated in the proceedings. Finally, delegates were appointed to represent the State of Iowa at the River and Harbor Improvement Convention to be held in Chicago on July 5th.<sup>51</sup> These

<sup>50</sup> *The Bloomington Herald*, New Series, Vol. I, No. 41, February 26, 1847. See also *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 37, March 3, 1847, and No. 38, March 10, 1847.

<sup>51</sup> *The Bloomington Herald*, New Series, Vol. II, No. 56, June 11, 1847.

various meetings serve as a background for the congressional campaign of 1847.

Early in May the Whig State Central Committee issued a call for a convention of delegates representing the several counties composing the First Congressional District to meet at Fairfield on Thursday, May 20, 1847, to nominate a candidate for Congress. The call for this convention, which was signed by Fitz Henry Warren, Ebenezer Cook, and Joseph H. Hedrick, requested the central committees of the respective counties to take early measures for securing the full attendance of their delegations.<sup>52</sup> Having met pursuant to the call, the Convention<sup>53</sup> nominated General Jesse B. Browne of Lee County for Congress. The Democratic Congressional Convention for the First District met at Fairfield about the same time<sup>54</sup> and nominated William Thompson of Henry County.

General Jesse B. Browne, Whig candidate for Congress from the First District, was born in Kentucky early in the nineteenth century. He emigrated to Illinois when he was still a young man and was in command of a company of Rangers in the Black Hawk War. Appointed a captain in the First Dragoons in the regular army in August, 1833, he was stationed at a military post at Montrose in the Black Hawk Purchase. In 1837 he resigned his commission and settled at Fort Madison. He was elected a member of the Territorial Council of Iowa in 1838 on the Whig ticket and

<sup>52</sup> *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 44, May 5, 1847.

<sup>53</sup> The writer has made a diligent search for a record of the proceedings of this Convention, but without success. Gaps in early newspaper files and a tendency on the part of party organs to omit accounts of the convention proceedings of opposing parties renders it difficult to get a record of all congressional conventions in this period.

<sup>54</sup> *The Bloomington Herald*, New Series, Vol. II, No. 53, May 21, 1847, and No. 54, May 28, 1847. The writer has been unable to find any record of this Convention.

was chosen president of the Council. Mr. Browne was a member of the Council for four terms and a Representative in the Eighth Legislative Assembly. When Iowa was admitted into the Union, Browne was elected a member of the First General Assembly and was Speaker of the House during both the regular and extra sessions. Mr. Browne is described as "a man six feet seven inches tall, of commanding presence, polished manners and popular."<sup>55</sup>

William Thompson, Democratic candidate for Congress from the First District, was born in Pennsylvania in 1813. He went to Ohio in 1817 where during his youth he helped his father in clearing a farm and working in the maple sugar industry. After receiving a common education he commenced the study of law when he was twenty-one. He went west in 1839 by way of the Ohio River and arrived in Burlington the same year. Having established himself in the practice of law at Mt. Pleasant in the fall of 1839, he formed a law partnership with J. C. Hall the following year. In 1843 Mr. Thompson was elected a Representative in the Legislative Assembly of the Territory of Iowa, in which he served also as chief clerk for the two succeeding sessions. He was also Secretary of the Constitutional Convention of 1846. Mr. Thompson was later editor of the *Iowa State Gazette* for several years. In 1861 he was elected chief clerk of the House. When the Civil War opened he raised a company for the First Iowa Cavalry. Having served the Union cause throughout the war and having been honored with repeated promotions, he was finally appointed Captain in the regular army, serving with Custer in his Indian campaigns. Mr. Thompson later went to Tacoma, Washington, where he died in 1897.<sup>56</sup>

The Democratic Congressional Convention for the Second

<sup>55</sup> See Gue's *History of Iowa*, Vol. IV, pp. 31, 32.

<sup>56</sup> See Gue's *History of Iowa*, Vol. IV, p. 262.

District was held at Bloomington, on Wednesday, June 6th. About half of the counties in the district were represented. A permanent organization was effected in the afternoon, Mr. McHenry of Dubuque having been appointed President. An exciting contest took place between the adherents of Mr. Benton of Dubuque County and Mr. Leffler<sup>57</sup> of Des Moines County, indicating a rivalry between the northern and southern portions of the State in the election of Congressmen such as existed later in the election of United States Senators for so many years. The convention finally proceeded to ballot by counties, when it appeared that Mr. Leffler received thirty-three votes and Mr. Benton eleven. Mr. Leffler was, therefore, declared nominated.<sup>58</sup>

The Whig congressional nominee for the Second District was Thomas McKnight of Dubuque, who announced his candidacy for Congress in the early part of May.<sup>59</sup> Thomas McKnight was well known among the older inhabitants of Iowa, having come to Dubuque in the early history of the Territory. When the land office was established at Dubuque in 1838, McKnight was appointed "Receiver of the Public Moneys" by President Van Buren, which position he held until he was removed by President Polk in 1845. McKnight was the Whig candidate for Governor in 1846, but was defeated by Ansel Briggs by a small majority. His nomination for Congress met with a "warm response" in Dubuque County.<sup>60</sup>

Leading Whig papers, like *The Iowa Standard* and *The Bloomington Herald*, do not make mention of the Whigs holding a congressional convention in the Second District,

<sup>57</sup> See above pp. 475, 476.

<sup>58</sup> *The Bloomington Herald*, New Series, Vol. II, No. 56, June 11, 1847.

<sup>59</sup> *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 44, May 5, 1847.

<sup>60</sup> *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 47, May 26, 1847.

although they do make mention of such a convention being held in the First District. It may therefore be inferred that the Whigs did not hold a convention in the Second District and that Thomas McKnight was nominated in some other way. *The Iowa Capitol Reporter* made the charge that "The Editors of the Standard as well as every other Whig editor in the state know perfectly well that all the candidates who were to be run . . . . by the Whig party in the ensuing campaign . . . . were selected and definitely agreed upon in caucus by the federal members of the Legislature at the 'Whig Head Quarters' in this city before the close of the late session."<sup>61</sup> *The Iowa Standard* denied this charge contending that "the whigs have no candidates in the field . . . . for Congress . . . . except Thomas McKnight who was only announced last week."<sup>62</sup> The only positive evidence that McKnight was not nominated by a congressional convention or by a caucus held at Iowa City is found in the *Burlington Hawk-Eye*, which refers to McKnight as a man "not dependent on a party caucus for being a candidate, brought out as by acclamation of the people."<sup>63</sup>

The candidates of both parties for Congress were now in the field; but the campaign did not open until July — a few weeks before the election. "The great and absorbing question", declared *The Iowa Standard*, "is, who shall represent the people of Iowa in the Congress of the United States? . . . . In this contest there can be no compromise with expediency, with sectional feelings, or with personal preferences. The party lines must be drawn. . . . No

<sup>61</sup> Quoted in *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 46, May 19, 1847.

<sup>62</sup> *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 46, May 19, 1847.

<sup>63</sup> Quoted in *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 51, June 23, 1847.

whig can consistently vote for a locofoco. . . . Nor can an honest locofoco vote for a whig, without a surrender of principle. Therefore, every elector will be constrained to vote for the nominee of his party, unless he shall, before the election, be satisfied that some of his political notions have hitherto been erroneous. To work out these changes and convictions in the minds of men, is the business of the tongue, the pen and the press, and in a contest like the present, we shall endeavor to discharge the duty assigned to us, as the conductors of a public journal." The Polk administration is then reviewed, whereupon the voters of Iowa are enjoined to "consider these things" and to "Hear nothing but the truth, consult no creed but the constitution, regard no man who is not a statesman, and know no party whose members do not go for their country first, their country last, and their country forever."<sup>64</sup>

The campaign for Congress in the First District was uneventful, the newspapers making practically no mention of it. Interest shifted to the campaign in the Second District where Shepherd Leffler was a candidate for reelection against his Whig opponent, Thomas McKnight. The *Burlington Hawk-Eye*, while admitting that the Democrats had a nominal majority in this district, contended that there were a number of serious drawbacks to Leffler's election, among which were the following: (1) the Democrats, in the effort to secure a Democratic majority, had gerrymandered the State in such a way as to add a large portion of the southern part of Iowa to the north; (2) Leffler had voted for the amendment which censured General Taylor; (3) he had supported Polk in his veto of the River and Harbor bill; (4) he had voted against the Wilmot Proviso; (5) he had voted to admit slavery into Oregon; (6) he had entered into a bargain with S. C. Hastings by which he

<sup>64</sup> *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 52, June 30, 1847.

was "to use his official and personal influence" to get Hastings elected to the United States Senate; (7) he had to contend with Thomas McKnight, "a peoples man—a farmer who works hard for his living. A man who had the confidence of President Van Buren, of Harrison, and of Tyler, and who, as long as he retained an office, discharged his duty most faithfully."<sup>65</sup>

These observations on Leffler's candidacy were taken up by other Whig papers<sup>66</sup> and used as campaign material to insure the election of McKnight. This led Leffler to come out in his own defense. On the evening of July 22nd, he delivered a speech at Iowa City<sup>67</sup> before some forty or fifty Democrats and as many Whigs, defining his position on the leading issues in the campaign. He was opposed to a national bank, a protective tariff, and the distribution of the proceeds of the public lands among the States—all of which he characterized as "obsoletisms", asserting that the Whigs had, in the main, abandoned these long cherished measures and placed the issue of the present contest on the supposed unpopularity of the Mexican War. He announced himself in favor of appropriations to improve the navigation of the upper Mississippi and pledged himself to endeavor, should he be elected, to secure a donation of a certain percentage of the sales of the public lands lying within a given district on each side of the river, and that, if he could not succeed in this, he would support some other project to secure the necessary funds for this improvement. He gave as his chief reasons for voting

<sup>65</sup> This editorial is quoted in *The Iowa Standard* (Iowa City), New Series, Vol. I, No. 51, June 23, 1847.

<sup>66</sup> *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 2, July 14, 1847, and No. 3, July 21, 1847; also *The Bloomington Herald*, New Series, Vol. II, No. 60, July 9, 1847.

<sup>67</sup> This speech is reviewed in *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 4, July 28, 1847.

against the amendment to the Oregon Bill, providing "that Oregon being north of 36° 30', should be a free territory", that the amendment was intended to extend the Missouri Compromise line to the Pacific. The War with Mexico he justified as the unavoidable and inevitable result of Mexican aggressions and contended that by the annexation of Texas we acquired all the territory east of Rio Grande. Finally, he justified his opposition to the Wilmot Proviso with the contention that the passage of the three million bill with that proviso would have demoralized our army in Mexico and that we had no assurance that we would acquire any territory from Mexico.

Leffler devoted the greater part of his speech to the Mexican War—this topic being uppermost in the public mind as shown by the space accorded to it by the newspapers and the emphasis given it by the Democratic State platform adopted at Iowa City on June 11th.<sup>68</sup> The great political issue, however, was not so much the justice or injustice of the War with Mexico *per se*, but rather the disposition that was to be made of the territory which might be acquired from Mexico, i. e. whether slavery was to be prohibited from the territory thus acquired. "The Wilmot Proviso", concluded *The Iowa Standard* a few days before the election, "is now a test question between slave and non-slave holding States, or rather between the friends of the Union and the nullifiers. And no man can dodge this issue which the northern States have been compelled to make in self-defense."<sup>69</sup> Thus was formulated the essential issue which was finally to disrupt the Democratic party in Iowa and lead to the formation of new parties on sectional lines.<sup>70</sup>

<sup>68</sup> Fairall's *Manual of Iowa Politics*, Vol. I, pp. 19, 20.

<sup>69</sup> *The Iowa Standard* (Iowa City), Vol. II, No. 4, July 28, 1847.

<sup>70</sup> For a discussion of the Wilmot Proviso see Garrison's *Westward Extension* in *The American Nation Series*, Chapter XVI.

The election was held on Monday, August 2nd. The official returns showed that the Democratic candidates for Congress in both districts were successful. In the First District, William Thompson was elected over J. B. Browne by a vote of 5530 to 4986 — a majority of 544. In the Second District, Shepherd Leffler was elected over Thomas McKnight by a vote of 5159 to 4873 — a majority of 286. In the First District the Whigs carried but four counties — Dallas, Henry, Jasper, and Mahaska. In the Second District, Whig majorities were cast in the counties of Clayton, Cedar, Delaware, Jones, Scott, Muscatine, Washington, and Louisa. All the other counties in both districts were carried by fair Democratic majorities. Shepherd Leffler carried Des Moines County by a vote of 1004 to 947; while William Thompson lost Henry County by a vote of 624 to 493. Thomas McKnight lost Dubuque County by a vote of 749 to 617, and J. B. Browne lost Lee County by a vote of 1191 to 1098. Shepherd Leffler was, therefore, the only candidate who carried his home county.<sup>71</sup>

“We have met the enemy and we have a well grounded suspicion that *we are theirs*”, remarked *The Bloomington Herald* when the results of the election were known. “It was too much to hope, to overcome the Locofoco majority in one trial, with all the interest and appliances of the executive patronage in this new and unsettled State. A few more trials will, however, place the Whig standard in the ascendancy. Patience and perseverance will overcome the minions of Polkery, and while we regret that we have not done it entirely this time; we are in no wise discouraged and will don our armour for the next and the next contest with the executive party, until the standard of the country shall no longer trail in the dust, at the foot of the black flag of Locofocoism.”<sup>72</sup>

<sup>71</sup> Election returns as found in the Archives in Des Moines.

<sup>72</sup> *The Bloomington Herald*, New Series, Vol. II, No. 64, August 7, 1847.

It will be remembered that the Constitution of the United States provides that "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators."<sup>73</sup> It will further be remembered that Congress had enacted legislation requiring the States to elect Representatives "by districts", but that "the times, places and manner" of holding such elections were still left to be prescribed by the legislatures of the respective States.<sup>74</sup> Finally, it will be recalled that the General Assembly of Iowa had in accordance with the legislation of Congress divided the State into two congressional districts.<sup>75</sup> The General Assembly had not, however, made any provision for holding congressional elections as required by the Constitution of the United States.<sup>76</sup> This very early brought up the question of the legality of the congressional election of 1847 — which constituted a bone of contention between the two parties during the late summer and autumn of the same year.

Two weeks following the election of Leffler and Thompson to Congress, *The Iowa Standard*, after reviewing the above considerations, declared the congressional election of 1847 to be null and "void for the want of a law" authorizing it. It professed to deprecate the illegality of this election for two general reasons: (1) the people of Iowa had expressed fairly their preference for Shepherd Leffler and William Thompson; and (2) they would be ridiculed for

<sup>73</sup> *Constitution of the United States*, Article I, Section 4.

<sup>74</sup> See above, pp. 469, 470.

<sup>75</sup> See above, pp. 485, 486.

<sup>76</sup> The Congressmen elected in 1846 had been chosen in accordance with Article XIII, Section 6, of the Constitution of 1846.

not being able to muster in the First General Assembly, "men capable of putting the wheels of government in motion". Whether any serious difficulty would result from "this culpable neglect of legislative duty" remained to be seen. The House of Representatives, being the judge of the elections, returns, and qualifications of its own members, might respect the certificates of election issued to Leffler and Thompson under the "broad seal" of Iowa. Finally, this organ insisted that "we would not deprive Messrs. Leffler and Thompson of their seats, if it depended on our individual votes. That they are illegally elected is no fault of theirs, or of their constituents. The blame rests upon the General Assembly. We cheerfully acquiesce in the will of the majority, however expressed."<sup>77</sup>

The *Burlington Hawk-Eye* discussed the election in a similar liberal manner which led to a vigorous rejoinder by the *Iowa State Gazette* (Burlington) as follows:

Again, we say, and we speak for the democracy, if the late Congressional election is not valid, let it be called in question at once. We want no such elections be their results for or against us. We are not yet so abandoned as a party that we desire the connivance of our opponents at series of fraudulent elections that we or they may retain a little brief authority over one of the most important offices of the State. We challenge our opponents to test the validity of this election.<sup>78</sup>

In reply to this challenge *The Iowa Standard* said:

We repeat that the late election for representatives to Congress is *null* and *void* for the want of a law to authorize it. And if the question is fairly raised the House of Representatives must so declare it. . . . This is the long and short of this controversy and since we have been challenged to contest the validity of this

<sup>77</sup> *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 7, August 18, 1847.

<sup>78</sup> Quoted in *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 8, August 25, 1847.

election we say to the challengers that the whigs are prepared to declare and prove that Iowa has no representatives in Congress.<sup>79</sup>

The *Davenport Gazette*, however, virtually acknowledged the invalidity of the election by declaring that inasmuch "as the two gentlemen . . . have been elected honorably", and inasmuch as at "another election would doubtless receive a majority, we think it entirely needless to put the State to such useless expense, if it can be avoided."<sup>80</sup>

This seemed, indeed, to be the proper solution of the matter, although the Whigs were correct in their contention that the election was illegal. The General Assembly might, however, have been assembled, the election of 1847 declared illegal, a law governing congressional elections passed, and a new election for Congressmen held. But the House of Representatives was the only constituted authority before whom the case could be carried for judicial determination. Thus the matter dragged on until Congress assembled when the House of Representatives on December 6, 1847, admitted the Congressmen elect from Iowa without going behind the certificates of election issued by Governor Briggs.

As a matter of interest, it may be mentioned that the First General Assembly had in fact passed "A bill providing for the election of Representatives in Congress." This bill passed the Senate on February 20, 1847.<sup>81</sup> It was sent to the House and was passed by that body on February 24th.<sup>82</sup> This was the last that was heard of it. The Executive Journal of the session does not contain any record of it and it is not known whether the bill was ever presented to the Governor for his approval. It was presumed that

<sup>79</sup> *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 8, August 25, 1847.

<sup>80</sup> Quoted in *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 10, September 8, 1847.

<sup>81</sup> *Senate Journal*, 1846-1847, p. 262.

<sup>82</sup> *House Journal*, 1846-1847, p. 403.

the bill was lost by the Committee on Enrollments in the House. The Secretary of State had no record of it in his office.<sup>83</sup>

The election of Shepherd Leffler and William Thompson being permitted to stand, the General Assembly at an early date passed a law governing congressional elections. On January 24, 1848, the General Assembly, called in special session for the purpose chiefly of electing United States Senators, passed "An Act to provide for the election of Representatives in Congress", the provisions of which are as follows:

1. That a Representative in the Congress of the United States shall be chosen in each of the Congressional districts of the State, by the qualified voters thereof, at the general election in the year one thousand eight hundred and forty-eight, and every two years thereafter.

2. If a Representative in Congress shall resign, he shall forthwith, transmit a notice of his resignation to the Secretary of State; and if a vacancy shall occur by death or removal from the District in the office of Representative in Congress, the clerk of the board of commissioners of the county where such Representative shall have resided at the time of his election, shall, without delay, transmit a notice of such vacancy to the Secretary of State.

3. Upon the happening of a vacancy in the office of Representative in Congress, the Governor shall order a special election to fill such vacancy, unless in his opinion there will not be sufficient time to hold an election and allow the Representative then chosen, to take his seat before the expiration of the term for which he would have been chosen; the same notice of such special election shall be given in each county of the proper Congressional district, as is provided for in cases of special election to fill the vacancy occasioned by the death of a Representative in the General Assembly of this State.

4. The clerks of the boards of commissioners of the respective counties in the district, shall, immediately after any election of

<sup>83</sup> *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 7, August 18, 1847.

Representative in Congress, forward an abstract of votes given thereat, to the Secretary of State by mail; and the Governor, Secretary of State, Auditor and Treasurer, or any three of them, shall be a board of canvassers to count such votes, and report thereon. In case three of said officers do not attend, either of the judges of the Supreme or District Courts, may be called in to make up that number, and the person having received the highest number of votes in such district, shall be declared duly elected.

5. The said board of canvassers shall be called together by the Secretary of State as soon as all the returns shall be in, and in case such returns shall not be in within thirty days from the day of the election, he shall despatch a special messenger to the delinquent county or counties, for the purpose of bringing up such returns.

6. The report of the board of canvassers shall be published in one of the newspapers printed at the seat of government, and shall set forth the number of votes given for each candidate in each of the counties of the proper district. Should there be a tie, a special election shall be called in the manner above provided.<sup>84</sup>

Thus did the General Assembly of Iowa prescribe the time, places, and manner of holding elections for Representatives in the United States Congress.

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<sup>84</sup> *Laws of Iowa*, Extra Session, 1848, pp. 31, 32.

## THE RENDITION OF BARCLAY COPPOC

[The author's dominant motive in writing this paper, and in conducting the research necessarily connected therewith, has been to inquire into the possible legal and constitutional bases for Governor Kirkwood's refusal to honor the requisition of Governor Letcher of Virginia for Barclay Coppoc. Not only has the purpose been to conduct the inquiry as noted, but also to endeavor to ascertain whether the Iowa executive's refusal was founded upon sound and tenable grounds. Repeated charges have been made that Governor Kirkwood's legal knowledge was sadly at fault and that he committed the gravest of blunders when he refused the demand.—EDITOR.]

### JOHN BROWN AT SPRINGDALE

As the twilight shades were falling at the close of a day in the early autumn of 1855 a man emerged from the forest-covered bluffs bordering the western banks of the Mississippi River near what is now the city of Clinton, Iowa.<sup>1</sup> Climbing to the summit of a treeless height near by, he gazed across the country to the westward. His sole companions were a lad of fifteen and a young man not yet thirty years of age. Three sons had already preceded this man to what was then the frontier West. Led on by tales of cruel treatment which had been meted out to these sons by "border ruffians", the father, "Old John Brown", had journeyed thus far from his home in northern New York. He had yet several hundred miles to travel before he would reach the home of his sons. Seemingly satisfied with his hasty survey of the country before him, he directed preparations for the night's encampment.

At the dawning of the day following their arrival on the western bank of the Mississippi, John Brown and his companions arose and were soon threading their way over the prairies to the westward. From Tipton they pressed on,

<sup>1</sup> Gue's *John Brown and his Iowa Friends in The Midland Monthly*, Vol. VII, p. 103.

passing through the hamlet of Springdale in Cedar County.<sup>2</sup> Little did Brown then think that this quaint and obscure Quaker village would in a little more than three years become intimately connected with his name and fame, and that here would be brought to maturity the plans for his sadly misdirected and ill-fated blow at American slavery. There is no record that Brown even paused at the scene of his future "city of refuge".

Within two weeks John Brown had reached his destination in Kansas. Here, driven almost to madness by the murder of his relatives by "border ruffians" from Missouri and neighboring slave States, he quickly drew the attention of the nation by a series of border skirmishes, such as "Black Jack" and "Ossawatimie", which won for him the dread of the pro-slavery border warrior and for that particular territory the opprobrious name of "bleeding Kansas".

Iowa, the scene of so much of the later activity of John Brown, saw him no more until October, 1856, when he suddenly appeared at Tabor. After remaining here<sup>3</sup> for some time he hurried eastward to consult William Penn Clarke of Iowa City, who at this time was the Iowa member of the Kansas National Committee.<sup>4</sup> Not daring to stop in Iowa City with the slave refugees who accompanied him, Brown resolved to go on to the Pedee Quaker settlement in Cedar County, about sixteen miles to the eastward, where he had been told he might hope to find shelter for his charges.<sup>5</sup> From this refuge he could return to Iowa City to hold night-

<sup>2</sup> Gue's *John Brown and his Iowa Friends in The Midland Monthly*, Vol. VII, p. 106.

<sup>3</sup> Villard's *John Brown — A Biography Fifty Years After*, pp. 267-269.

<sup>4</sup> Lloyd's *John Brown among the Pedee Quakers* in the *Annals of Iowa*, Vol. IV, p. 668.

<sup>5</sup> Brown upon the many trips which he made through Iowa to the eastward was always accompanied by fugitive slaves whom he was hurrying on to Canada

ly conferences with Clarke.<sup>6</sup> Thus it happened that toward the close of an October day in 1856 Brown drew rein before the tavern at West Branch and asked shelter for himself and mule.<sup>7</sup> From the time of his kindly reception at this tavern dates Brown's almost constant connection with Pedee and its life to the day of his death, a little more than three years later.

Remaining for only a few days at the West Branch tavern, Brown resumed his flight toward Canada with his contraband slaves. Following his safe arrival in Canada, he paid a brief visit to the eastern supporters of his cause and by the early months of 1857 he was again in Kansas.<sup>8</sup> Even at this early date Brown seems to have been evolving in his mind a scheme for a sort of armed invasion of slave territory other than Kansas or Missouri, for he reappeared at Tabor in the summer of 1857 accompanied by one Colonel Hugh Forbes,<sup>9</sup> whom he had induced to come from the East

and freedom. Thus encumbered he dared not remain in a town where pro-slavery sentiment was as pronounced as it then was in Iowa City.— See Lloyd's *John Brown among the Pedee Quakers* in the *Annals of Iowa*, Vol. IV, p. 669.

Tabor, Des Moines, Grinnell, and Iowa City were well established stations on the Underground Railway in Iowa from Kansas and Missouri.

<sup>6</sup> Lloyd's *John Brown among the Pedee Quakers* in the *Annals of Iowa*, Vol. IV, p. 669.

<sup>7</sup> As Brown alighted from his mule at West Branch before "The Traveler's Rest", a little frame tavern kept by James Townsend, he inquired of the tavern keeper if he had ever heard of "Old John Brown" of Kansas. Townsend made no reply other than to mark Brown's hat, saddle, and mule with cross marks of chalk which were the identifying marks granting to the bearer thereof the freedom of the tavern's hospitality. The mule still remained in the possession of John H. Painter of Springdale in 1866; and Frederick Lloyd notes that it then was "the most prized, petted and pampered mule in that settlement".— See Lloyd's *John Brown among the Pedee Quakers* in the *Annals of Iowa*, Vol. IV, pp. 669, 670.

<sup>8</sup> Such men as Frederick Douglass, Gerrit Smith, Theodore Parker, Franklin B. Sanborn, Wendell Phillips, and Dr. Samuel G. Howe were secretly furnishing Brown with supplies to carry on his Kansas war.

<sup>9</sup> Hugh Forbes was a soldier of fortune and had fought under the Italian liberator Garibaldi and other revolutionary leaders in Europe previous to coming to America.

to drill his projected anti-slavery army. Tabor,<sup>10</sup> being in free and sympathetic territory, was chosen as the best place for the work of drillmaster Forbes.

Brown's army, however, did not materialize. Forbes spent the whole of the summer and autumn of 1857 in drilling Brown and one or two of his sons in a new manual of arms and in a most original and fantastic system of target practice.<sup>11</sup> As autumn wore away Forbes became dissatisfied, and at last he and his employer violently disagreed upon the subject of compensation. On November 2, 1857, Forbes took passage on a Missouri River steamer for the East,<sup>12</sup> while Brown returned by wagon to Kansas in search of his promised recruits. Ever after Brown thoroughly believed that his former drillmaster was his Nemesis hurrying him onward to the destruction of his plans.

Upon his return to Kansas, Brown was more successful than formerly; and soon he reappeared at Tabor with about eleven men besides himself—the genesis of his famous band.<sup>13</sup> It was at this time that Brown first revealed the fact that his plans were directed elsewhere than against Kansas as their point of execution.<sup>14</sup> Forbes's unhappy defection seemed to make necessary a change of base, and accordingly Brown announced an early departure for Springdale, Iowa. At the beginning of one of the severest

<sup>10</sup> Tabor had been founded in 1848 by a number of Ohioans who were impelled by an ambition to make their Iowa settlement a second Oberlin. At this time (1857) it had about twenty-five houses.—Villard's *John Brown—A Biography Fifty Years After*, p. 267.

<sup>11</sup> Todd's *Early Settlement and Growth of Western Iowa*, pp. 154, 155.

<sup>12</sup> Todd's *Early Settlement and Growth of Western Iowa*, p. 156.

<sup>13</sup> Todd's *Early Settlement and Growth of Western Iowa*, p. 156. Among the little band may be noted Aaron D. Stevens, Charles P. Tidd, Owen Brown, John H. Kagi, and John E. Cook who fought with him at Harper's Ferry or were present at the Kennedy Farm.

<sup>14</sup> See Cook's confession in the *New York Weekly Tribune*, Vol. XIX, No. 951, December 3, 1859.

winters in the history of Iowa the party left Tabor on December 4, 1857.<sup>15</sup> More than three weeks were consumed in the march across the snow-covered prairies two hundred and fifty miles to Springdale, and many were the hardships endured by the men.<sup>16</sup>

Brown had confidently planned upon disposing of his mules and wagons upon reaching Springdale in order to relieve his chronic financial distress, but the full effect of the panic of 1857 was now making itself felt and rendered the sale of his freighting equipment impossible.<sup>17</sup> William Maxson, a Quaker farmer and a strong abolitionist living about three miles northeast of Springdale, however, agreed to care for Brown's men through the winter, taking the mules and wagons in payment. To this arrangement Brown finally yielded his consent.

Brown had originally hoped to make the winter march to Ashtabula,<sup>18</sup> Ohio; but owing to his habitual failure to correctly reckon his financial resources he was, in spite of his reluctance, forced to abandon this plan for the time being. He did not remain long in Springdale, however, for upon completing the disposition of his forces he departed for the East to raise more money and much needed supplies. Upon the eve of his departure for the East, he is thought to have revealed his tentative Virginia plans, with Harper's Ferry as the possible point of attack, to Parsons and Kagi, two members of his band which was then quartered at the Maxson farmhouse near Springdale.<sup>19</sup>

<sup>15</sup> Villard's *John Brown — A Biography Fifty Years After*, p. 311.

<sup>16</sup> Dubois's *John Brown in the American Crisis Biographies*, pp. 221, 222; and Villard's *John Brown — A Biography Fifty Years After*, p. 311.

<sup>17</sup> Villard's *John Brown — A Biography Fifty Years After*, p. 312.

<sup>18</sup> Villard's *John Brown — A Biography Fifty Years After*, p. 312.

<sup>19</sup> The band as brought to Springdale at this time comprised Owen Brown, John H. Kagi, Richard Bealf, Luke F. Parsons, William H. Leeman, Aaron D. Stevens, John E. Cook, Charles W. Moffat, Charles P. Tidd, and Richard Rich-

The Iowa hamlet whose name has become intimately associated with the memory of "Old John Brown" was at this time composed of people "dwelling in comfortable houses, surrounded by their own teeming fields, and enjoying to the utmost the fruits of virtuous liberty and their own thrift". They were a sympathetic people who "would gladly see all men in possession of the same blessings God has showered upon them."<sup>20</sup> It was a Quaker community, composed of members of that sect who had found their eastern homes too much compassed about by other sects who rendered the living of the simple Quaker life practically impossible. Upon the prairies of eastern Iowa they had sought and found that simplicity of life for which they had so eagerly longed in their Ohio homes. At the time of John Brown's visit the village had a population of about one hundred souls and could boast of but one street, upon which was to be found not only the commercial center of the community, but the unassuming cottages of the villagers as well. Broad-brimmed hats and scuttle-shaped bonnets were much in evidence.

Into this little community John Brown brought his followers late in December, 1857; and here it was that he completed his plans for a final attack upon the institution of slavery.<sup>21</sup> The people of the village received Brown kindly and extended to him the fullness of their Quaker hospitality.<sup>22</sup>

ardson. Richardson was the only colored man of the band.— See Lloyd's *John Brown among the Pedee Quakers* in the *Annals of Iowa*, Vol. IV, p. 712; and Richman's *John Brown Among the Quakers* (Third Edition), p. 23.

<sup>20</sup> Lloyd's *John Brown among the Pedee Quakers* in the *Annals of Iowa*, Vol. IV, p. 666.

<sup>21</sup> Lloyd's *John Brown among the Pedee Quakers* in the *Annals of Iowa*, Vol. IV, p. 667.

<sup>22</sup> Dubois's *John Brown*, p. 222. Mr. Maxson in reckoning the board of Brown's men did so at the rate of one dollar per week. However, Mrs. E. S.

Amid these pleasant surroundings, the band spent the remainder of the winter.<sup>23</sup> Brown had, before his departure on January 15th, appointed Stevens, a member of the band, as drillmaster to fill the place vacated by Forbes. During the winter the men, under the tutelage of the new drillmaster, were trained in the manual of arms, military formations and maneuvers, and gymnastics for three or four hours each day in the field in the rear of the Maxson home.<sup>24</sup> The long evenings were spent in holding sessions of a mock legislature, in which Cook and Kagi starred in debate, and in various other equally enjoyable pastimes.<sup>25</sup> Such splendid entertainers did they prove themselves and so royally were they entertained that when Brown returned to Springdale from the East on April 22, 1858, with the announcement of their near departure for Chatham, Canada West, there was on the part of the members of the band and the people of Springdale mutual regret.<sup>26</sup>

Butler, who resided at Springdale at that time, in a letter to *The Midland Monthly* states that the men were quartered during the winter at various farmhouses wherever they were able to obtain work. This seems probable since Maxson's house, as is evident from its size, could not accommodate all. She states that the headquarters were at the Maxson home. Several of the men were frequently quartered at her home.—*The Midland Monthly*, Vol. X, p. 576.

<sup>23</sup> Among these men were to be found poets, orators, scholars, Kansan War heroes, "idealists, dreamers, soldiers and avengers, varying from the silent and thoughtful to the quick and impulsive; from the cold and bitter to the ignorant and faithful . . . . It was a veritable band of crusaders . . . . They had been trained mostly in the rough school of frontier life, had faced death many times, and were eager, curious and restless."—Dubois's *John Brown*, pp. 285-287.

<sup>24</sup> Villard's *John Brown — A Biography Fifty Years After*, p. 316.

<sup>25</sup> Realf was a brilliant man and posed as having at one time been a protégé of Lady Noel Byron. He lectured frequently at the neighboring schoolhouses and was always greeted by well filled houses. Cook was equally talented as an orator and a poet and entertained crowds of people in the country schools many times by his elegantly worded addresses and attractive poems.

<sup>26</sup> Dubois's *John Brown*, p. 252.

## JOHN BROWN AND HIS MEN IN CANADA

Brown deemed immediate departure imperative; and so on April 27, 1858, he and his men set out by rail for Chatham, Canada West, going by way of Chicago and Detroit. They departed with the heartiest wishes for future success from the people of Springdale, who considered slavery the greatest curse of the Nation. Before leaving, Brown disclosed his completely matured plans to his three Quaker confidants and advisers — James Townsend, John H. Painter, and Dr. H. C. Gill.<sup>27</sup> These men are believed to have been the first persons to whom he revealed his matured plan of attack upon the institution of slavery.

In leaving Springdale for Canada, Brown had a two-fold purpose in view: first, to give his secret and temporary organization a constitutional form; and second, to gain an impetus for an immediate raid upon the Southland. The first object only was accomplished. Brown fondly hoped that upon giving his enterprise a constitutional footing volunteers and money would generously flow toward it. Accordingly, at Chatham, Canada West, on May 8, 1858, pursuant to a call<sup>28</sup> issued about a week previously, there assembled in an old engine house in that city one of the most strangely composed and organized constitutional conventions that ever met upon the American continent; while the product of its labors was equally strange.<sup>29</sup> Presided over by a negro,<sup>30</sup> its deliberations were largely and at times

<sup>27</sup> Lloyd's *John Brown among the Pelee Quakers* in the *Annals of Iowa*, Vol. IV, p. 712.

<sup>28</sup> See Cook's confession in the *New York Weekly Tribune*, Vol. XIX, No. 951, December 3, 1859.

<sup>29</sup> For a copy of the journal of the Provisional Constitutional Convention on May 8, 1858, see the report of the Mason investigating committee.— *Senate Reports*, 1st Session, 36th Congress, Report No. 278, p. 45.

<sup>30</sup> Its negro presiding officer was a Rev. William C. Munroe, a mulatto from Detroit, Michigan.— *Senate Reports*, 1st Session, 36th Congress, Report No. 278 (Testimony), p. 95.

exclusively participated in by negroes, and its measures were adopted by an overwhelming majority of negro votes.

During his winter's absence in the East, Brown had drafted a constitution, which he now submitted to the Convention for adoption. Much heated controversy arose over the forty-sixth article,<sup>31</sup> but its provisions were finally accepted without amendment. The final result of the Convention's labors, embodied in a document of forty-eight articles, was styled the "Provisional Constitution and Ordinances for the People of the United States."<sup>32</sup> This instrument was at once promulgated by Brown, and on May 10th provisional officers were elected.<sup>33</sup>

The work of the constitutional and nominating convention had not been closed before Brown received word from his eastern friends that his intended move upon the South had been betrayed — presumably by Forbes. This news ren-

<sup>31</sup> It has always been a point of heated controversy whether Brown had in mind the ultimate overthrow of the United States government and Constitution or not. To the last he protested that he had no such object in view. The Forty-sixth Article which aroused so much discussion in the Convention was proposed by Brown — as indeed was the whole Constitution. Brown fought for the retention of the article and finally won. This action ought to settle the above question in his favor. The article is as follows: "The foregoing articles shall not be construed so as in any way to encourage the overthrow of any State government, or of the general government of the United States, and look to no dissolution of the Union, but simply to amendment and repeal. And our flag shall be the same that our fathers fought under in the Revolution." — Provisional Constitution and Ordinances as incorporated in the report of the Mason investigating committee, found in *Senate Reports*, 1st Session, 36th Congress, Report No. 278, pp. 58, 59, *Journal of the Select Committee*.

<sup>32</sup> *Senate Reports*, 1st Session, 36th Congress, Report No. 278, pp. 48-59. Some of the provisions of this Constitution are very unusual. For instance, there was to be a Congress of one house of from five to ten members, and a Supreme Court of five members, each of whom was to hold circuit court. All property was to be held in common. There were to be no salaries. Labor was compulsory, and the carrying of unconcealed arms was encouraged.

<sup>33</sup> Dr. Hermann von Holst, a leading authority on American constitutional history, has referred to this strange instrument of government as being "a piece of insanity in the literal sense of the word. A confused medley of absurd forms."

dered inevitable the immediate disbanding of the members of the proposed expedition, who scattered in many directions wherever promise of work was to be found. With a parting admonition to his men to keep in close touch with him whatever might happen, Brown once more returned to Kansas and resumed his relentless war upon slavery.

#### BROWN'S LAST VISIT TO THE WEST

While in Kansas for this last time, Brown, with the assistance of Kagi, planned and executed what was without doubt the most notorious of his slave raids into Missouri.<sup>34</sup> During the progress of this raid Kagi's party wantonly killed a slaveholder, besides destroying and stealing much property. As was his custom, Brown, after uniting his forces with those of Kagi, fled across the Missouri River at Nebraska City to Tabor, Iowa.

The news of the raid soon reached Tabor, bearing with it the details of the murder and of the destruction and theft of property. A mass meeting of the citizens of Tabor was held at which a resolution soundly denouncing Brown was passed as voicing the sentiment of the little village.<sup>35</sup> This action so incensed Brown that he at once left Tabor, vowing never to return. He therefore continued his flight to Springdale from whence, with the aid of William Penn Clarke, Hiram Price, Josiah B. Grinnell, and others he was enabled to reach Canada in safety with the slaves he had taken from their masters in Missouri.<sup>36</sup>

This proved to be Brown's farewell visit to Iowa, Kansas, and Missouri, where he had done so much to foment sec-

<sup>34</sup> See Villard's *John Brown — A Biography Fifty Years After*, pp. 367-384.

<sup>35</sup> Todd's *Early Settlement and Growth of Western Iowa*, pp. 158-161; and Villard's *John Brown — A Biography Fifty Years After*, pp. 384-386.

<sup>36</sup> An account of the part these men took in the forwarding of Brown and his slaves to Canada may be found in Lloyd's *John Brown among the Pedee Quakers* in the *Annals of Iowa*, Vol. IV, pp. 716-719.

tional and party strife. The latter State, thoroughly aroused at the murder of the slaveholder, Cruise, had offered aggregate rewards of three thousand dollars for Brown, dead or alive.<sup>37</sup> And so Brown decided to go East for the purpose of conferring with friends in Boston, where he spent the entire spring and early summer. Having to his own satisfaction adjusted all financial and strategic difficulties, Brown decided late in June that the time was most propitious for the launching of his long contemplated raid into eastern slave territory.

#### PREPARATIONS FOR THE RAID ON HARPER'S FERRY

Having reached a definite conclusion, he moved with characteristic enthusiasm and precipitation to the execution of his plan. Accompanied by two of his sons and Jeremiah Anderson, he hastened into Maryland, and on June 30th appeared at Hagerstown.<sup>38</sup> A few days later (July 3rd) he was on the Maryland side of the Potomac directly opposite Harper's Ferry. Here, it appears that Brown and his two sons pretended that they were seeking lands for purposes of investment.<sup>39</sup> A little later they rented what was known as the Widow Kennedy Farm, about four miles from the Ferry.

The mustering of men and the moving of arms and supplies at once began toward Chambersburg, Pennsylvania, from which place they were hauled across the country to the Kennedy Farm.<sup>40</sup> Brown and his men also began

<sup>37</sup> Villard's *John Brown — A Biography Fifty Years After*, p. 371.

<sup>38</sup> Sanborn's *Life and Letters of John Brown* (Fourth Edition), p. 527.

<sup>39</sup> Sanborn's *Life and Letters of John Brown* (Fourth Edition), pp. 527-529.

<sup>40</sup> It was at this time that John H. Painter shipped to Brown, under the latter's assumed name and directed to Chambersburg, Pennsylvania, the Sharps' rifles and revolvers — 196 of each — which, up to this time, had been stored at Springdale. These arms were shipped marked as "Carpenters' tools".— Lloyd's *John Brown among the Pedee Quakers* in the *Annals of Iowa*, Vol. IV, p. 760.

reconnoitering the country on both the Virginia and the Maryland sides of the Potomac in the immediate vicinity of the farm and Ferry in preparation for what they expected would "effect a mighty conquest"<sup>41</sup> and destroy the curse of slavery. Believing that he had only "this one opportunity, in a life of nearly sixty years", Brown threw himself unreservedly into what was without doubt one of the most daring, though foolhardy, exploits of modern times.

#### THE DEPARTURE OF EDWIN AND BARCLAY COPPOC

Thus it happened that on July 15, 1859, Brown despatched a message to two young men, scarcely more than boys, who were at this time living quietly in their home at Springdale. To these young men the message was of great importance, since it bore a request for their immediate presence at the Kennedy Farm.

While Brown's men had been drilling at the Maxson farm in the winter of 1857-1858 the two older Coppoc boys, Barclay and Edwin, had watched them and had become infatuated with the warlike preparations and with the magnetic personalities of certain members of the band. Moreover, they were in thorough sympathy with the cause which Brown and his men had espoused. Having volunteered their services to Brown subject to call, the expected summons found them ready to respond.

Sad indeed must have been that twenty-fifth day of July in Springdale, when the two Coppoc boys, responding to a call which had no place in Quaker principles, bade farewell to their mother and friends and began a journey whose ending not even their over-sanguine leader could foresee. The Quaker mother who, although rebelling against the wildness

<sup>41</sup> Words of John Brown in a letter written to F. B. Sanborn on February 24, 1858.—Sanborn's *Life and Letters of John Brown* (Fourth Edition), p. 444.

of Brown's plan, sacrificed her two sons for the cause of Freedom in which she sincerely believed, furnishes a true example of the heroism of American womanhood during the trying years which followed.

Edwin Coppoc, the older of the two brothers, was destined never again to look upon his Springdale home; for before five months had passed, his mother's prophetic words of parting<sup>42</sup> had been fulfilled and his name had been enrolled as one of the first martyrs in the internecine strife waged for the emancipation of the American negro slave. As the form of the Iowa boy swung clear of the scaffold's platform, the infuriated crowd of Virginians cheered. Later, the same crowd raged about his body as it was slowly lowered from the gibbet as if impatient to tear it to shreds.<sup>43</sup>

Barclay, more fortunate than his older brother, finally returned to Springdale in safety. In the attempt made by him to reach his home and friends, and in the subsequent efforts of those devoted friends to save his life, is found the constitutional question with which this paper will largely deal.

#### THE COPPOC FAMILY

The Coppoc family had formerly been members of the Quaker settlement at Salem, Ohio, where Barclay was born on January 4, 1839;<sup>44</sup> and so he was only ten months past his twentieth year at the time of the ill-fated assault which

<sup>42</sup> Barclay Coppoc upon receiving Brown's letter said to his mother: "We are going to start for Ohio to-day." "Ohio!" said his mother, "I believe you are going with old Brown. When you get the halters around your necks, will you think of me?"—Villard's *John Brown—A Biography Fifty Years After*, p. 571.

<sup>43</sup> Edwin Coppoc was hanged on December 16, 1859, at Charlestown, Virginia.—Villard's *John Brown—A Biography Fifty Years After*, p. 570.

<sup>44</sup> Villard's *John Brown—A Biography Fifty Years After*, p. 682; and Gue's *John Brown and his Iowa Friends in The Midland Monthly*, Vol. VII, p. 272.

ultimately was to claim his life as well as that of his brother. The father died when Barclay was only two years of age; and in the late forties the mother removed with her family to the Pedee settlement in Cedar County, Iowa. Mrs. Coppoc, the mother, was a woman of more than ordinary intelligence, firm and resolute in purpose and conviction, and a strong abolitionist, as were all her sect. To her teachings, instilled into their minds in early life, was due the strong and intense bitterness felt toward slavery by her sons.<sup>45</sup>

As Barclay neared young manhood he showed signs of tuberculosis, and so was sent to Kansas in 1857. While in Kansas he witnessed many of the stirring scenes which were daily being enacted in that Territory and had, we are told, taken part in some of Brown's expeditions. He returned to Iowa thoroughly in sympathy with Brown's cause and needed no urging when the invitation came in July, 1859. August had scarcely begun when he and his brother arrived at Chambersburg, Pennsylvania, and offered their lives and services to Brown to aid in the furtherance of his wildly conceived schemes of slave redemption. Seldom have the annals of our country recorded greater devotion to a cause than is found in the response of Edwin and Barclay Coppoc to the appeal of their magnetic but deluded leader.<sup>46</sup>

#### THE RAID ON HARPER'S FERRY

With his men gathered around him at Chambersburg, Pennsylvania, early in August, John Brown revealed his definite plans for attacking Harper's Ferry.<sup>47</sup> A few of his

<sup>45</sup> Letter from Mrs. E. S. Butler in *The Midland Monthly*, Vol. X, p. 576.

<sup>46</sup> "Ah, you gentlemen don't know Capt. Brown", said Edwin Coppoc while a prisoner at Harper's Ferry; "when he calls for us we never think of refusing to come."—*New York Weekly Tribune*, Vol. XIX, No. 945, October 22, 1859.

<sup>47</sup> As to just when Brown revealed his plans of attack upon slavery with Harper's Ferry as the definite point of assault has aroused much discussion and

men at first demurred to the leader's plans, but later all concurred and began the final preparations for the assault.<sup>48</sup>

On Monday, October 10, 1859, John Brown as Commander-in-chief of the "Provisional Army" issued general orders for the assault.<sup>49</sup> It is of interest in this connection to note that in these orders General Brown detailed Owen Brown, F. J. Merriam, and Barclay Coppoc as a special guard to remain at the Kennedy Farm in charge of the munitions of war stored there. Neither of these men had yet crossed the Potomac and set foot on Virginia soil; nor did they do so at any time during or after the assault.<sup>50</sup>

Sunday, October 16, 1859, witnessed the final calling of the roll at Kennedy Farm. The call revealed the fact that there were then present and ready for aggressive participation in the attack — which all but one<sup>51</sup> of the total number

no little disagreement. Weight of authority seems to favor the time given above. However, see statement of Edwin Coppoc when taken captive, in the *New York Weekly Tribune*, Vol. XIX, No. 945, October 22, 1859. See also Lloyd's *John Brown among the Pedee Quakers* in the *Annals of Iowa*, Vol. IV, p. 668; Dubois's *John Brown*, pp. 222-224, 304; Cook's confession in the *New York Weekly Tribune*, Vol. XIX, No. 951, December 3, 1859; and Realf's testimony before the Mason investigating committee in *Senate Reports*, 1st Session, 36th Congress, Report No. 278 (Testimony), pp. 91-94; and Sanborn's *Life and Letters of John Brown* (Fourth Edition), pp. 438, 450, 541.

<sup>48</sup> Brown alone believed in the assault on the property of the United States at Harper's Ferry.—Villard's *John Brown — A Biography Fifty Years After*, p. 427.

<sup>49</sup> According to the general orders his men were to be organized into battalions of four companies each, seventy-two men to the company. Each company was to be divided into bands of seven men under a corporal, and two bands made a section of sixteen men under a sergeant.—Sanborn's *Life and Letters of John Brown* (Fourth Edition), p. 546.

<sup>50</sup> To substantiate this statement see Cook's confession in the *New York Weekly Tribune*, Vol. XIX, No. 951, December 3, 1859; Villard's *John Brown — A Biography Fifty Years After*, p. 468; and Gue's *John Brown and his Iowa Friends in The Midland Monthly*, Vol. VII, p. 112.

<sup>51</sup> All but Taylor hoped by some stroke of fortune to come out alive; only a few believed in the plan of campaign, looking upon the arsenal as a death-trap.—Villard's *John Brown — A Biography Fifty Years After*, pp. 424, 425.

of followers regarded as the privilege of a lifetime—a force of twenty-one men, of whom sixteen were white and five colored.<sup>52</sup> And of this number four acknowledged Iowa as their home.<sup>53</sup>

Night came—dark, gloomy, and rainy. All held themselves in readiness for the final marching orders which were issued about eight o'clock, when Brown announced: "We will proceed to the Ferry."<sup>54</sup> Shortly thereafter the band began its silent march, unaccompanied by shrill of fife or roll of drum. Eighteen in all, they assailed and readily captured what their leader believed to be the Thermopylaean Pass to the abolition of slavery in America.<sup>55</sup>

Monday, October 17, 1859, dawned upon an astounded Washington and an all but panic-stricken Richmond. The long feared raid on the South had taken place and slavery, the bulwark of southern institutional life, was threatened with destruction. Such was the hasty conclusion of the South as the telegraph flashed the message of alarm. Troops were at once rushed upon Harper's Ferry from Washington and Richmond, but not for fifty-eight hours did John Brown and his men yield to overwhelmingly superior forces.<sup>56</sup> Of the eighteen members of Brown's band who were either killed or captured three were from Iowa.<sup>57</sup>

<sup>52</sup> Sanborn's *Life and Letters of John Brown* (Fourth Edition), p. 546; and *Senate Reports*, 1st Session, 36th Congress, Report No. 278, p. 3.

<sup>53</sup> These were Edwin and Barclay Coppoc, Stewart Taylor, and Jeremiah Anderson.

<sup>54</sup> Sanborn's *Life and Letters of John Brown* (Fourth Edition), pp. 552, 553; and Villard's *John Brown—A Biography Fifty Years After*, pp. 426-429.

<sup>55</sup> *Senate Reports*, 1st Session, 36th Congress, Report No. 278, p. 3.

<sup>56</sup> As reported by Colonel Robert E. Lee, commander of the U. S. Marines and other national forces present, Brown's band suffered a loss of twelve men by death. John Brown, Edwin Coppoc, Copeland, Stevens, and Green were taken prisoners. All were wounded except Coppoc, who came out of the battle unhurt.—*Senate Reports*, 1st Session, 36th Congress, Report No. 278, p. 44.

<sup>57</sup> These three Iowa boys were: Edwin Coppoc, Stewart Taylor, and Jeremiah Anderson.

Not all of these eighteen men, it should be noted, sacrificed their lives in the assault and later defense of the town. Those who escaped death at this time were taken prisoners upon surrender or were afterwards returned to Virginia by requisition upon the States where they were found. All who were thus taken or returned were hanged in accordance with the legal processes of a much frightened State. It was thus that Brown, Edwin Coppoc, and five others of the band<sup>58</sup> were indicted,<sup>59</sup> tried, and condemned to death by hanging<sup>60</sup>—the charge being first degree murder committed on citizens of Virginia.<sup>61</sup> With an immovable fidelity to an apparently lost cause, they all calmly awaited the day of death, going to their graves confident that their act would usher in a time of universal justice and freedom.<sup>62</sup>

#### THE ESCAPE OF BARCLAY COPPOC

It will be recalled that Barclay Coppoc, Merriam, and Owen Brown had, pursuant to orders, remained at the Kennedy farm to guard the arms and supplies. Later, during the attack Cook and Tidd were sent back to the farm with captured arms and slaves,<sup>63</sup> and while there word came of

<sup>58</sup> In addition to Brown and Coppoc the following were also hanged: Green, Stevens, Copeland, Cook, and Hazlett.

<sup>59</sup> Of these trials the *Boston Transcript* declared: "Whatever may be his guilt or folly, a man . . . . executed after such a trial, will be the most terrible fruit that slavery has ever borne, and will excite the execration of the whole civilized world."—Quoted in Villard's *John Brown—A Biography Fifty Years After*, p. 481.

<sup>60</sup> Brown was hung on December 2; Coppoc, Green, Copeland and Cook on December 16; Hazlett and Stevens were hung early the following year.—Villard's *John Brown—A Biography Fifty Years After*, pp. 557, 569, 580.

<sup>61</sup> The verdict read: "Guilty of treason, advising and conspiring with slaves and others to rebel, and of murder in the first degree."—*The Tipton Advertiser*, Vol. VI, No. 46, November 5, 1859.

<sup>62</sup> See editorial in the *New York Weekly Tribune*, Vol. XIX, No. 951, December 3, 1859.

<sup>63</sup> Gue's *John Brown and his Iowa Friends* in *The Midland Monthly*, Vol. VII, p. 112.

the impending surrender of Brown and the rapid mobilization of troops.<sup>64</sup> Fearing to return to the Ferry, they remained at the farm. On Tuesday came the not unexpected news of Brown's capture through the storming of the engine house by the United States marines.<sup>65</sup> Immediately the five survivors began a retreat.<sup>66</sup> Safety demanded that they keep to the most secluded portions of the mountains, continue their flight mainly by night, and live upon what could be found in the woods and fields.

Owen Brown was, by general consent, chosen leader of the retreat,<sup>67</sup> which he directed through the mountainous regions of Maryland and western Pennsylvania toward Lake Erie and Canada. Cook was soon captured, due to his own carelessness, and was returned to Virginia, where he suffered the same fate as was dealt to all members of the band who were captured at Harper's Ferry. Merriam dropped out later on account of physical exhaustion, but almost miraculously made his escape by railroad. The others, including Barclay Coppoc, continued the flight.

For thirty-six days they wandered through the Pennsylvania mountains, dogged at every turn by bloodhounds and human pursuers, for Governor Wise of Virginia had placed a price on Coppoc's head conditioned solely upon his delivery at the Jefferson County jail. The inclemency of the weather added to the hardships of the men, for the autumn

<sup>64</sup> Governor Wise of Virginia issued a proclamation "but fifteen lines long, and ordered artillery, cavalry, and infantry to the seat of war. . . . The President ordered up three companies from Old Point Comfort, and sent on eighty marines from the Washington Navy Yard, placing Col. R. E. Lee in command."—*New York Weekly Tribune*, Vol. XIX, No. 945, October 22, 1859.

<sup>65</sup> See Villard's *John Brown — A Biography Fifty Years After*, pp. 452-455; see also Dubois's *John Brown*, p. 334.

<sup>66</sup> For Owen Brown's dramatic story of this retreat, see the article by R. Keeler in the *Atlantic Monthly*, Vol. XXXIII, pp. 342 ff.

<sup>67</sup> Gue's *John Brown and his Iowa Friends* in *The Midland Monthly*, Vol. VII, p. 272.

rains had begun and in the mountains it was more frequently snow, sleet or hail, than rain. Their clothing was soon torn to shreds and their shoes were all but gone. Lacking shelter by day, they oftentimes lay upon the ground unprotected against the sleet and hail. Conditions were even worse at night, for to the discomfort of the day was added the chill of the night time and the laceration of feet or body by sharp stones and thorns.

For food the fugitives had nothing but what they could secure without being seen. There was little to be found in the mountains, and at that season of the year but little could be obtained lower down. Corn, picked grain by grain from the ear and eaten unground, formed the main article of diet. Sometimes they were successful in stealing a chicken, which was devoured raw—for they had no means of making a fire and even if they had possessed the means they would not have dared to use them. Under such conditions human endurance was pushed to the limit.

For several days their struggles against the pangs of hunger and the danger of capture by Virginia officers continued with little immediate promise of abatement. At last, driven to desperation by starvation and the pains incident to exposure, the three survivors concluded to seek food and shelter at any cost at a Pennsylvania farmhouse near at hand. Here they found themselves among friends and were given food and shelter. They did not, however, reveal their identity, fearing to trust anyone with their secret.

While partaking of the food, with which they were liberally served, one of the three refugees chanced to pick up a newspaper and there read of the fate of the other members of the band who had survived the assault. While he read the accounts of the hanging of their leader and of the condemnation of Edwin Coppoc and others, all succeeded in concealing their emotions except Barclay Coppoc. As the

details of the trial, condemnation, and approaching execution of his brother were read tears came to his eyes. But thanks to the hospitality of their host no embarrassing inquiries concerning the cause of the apparent grief were made.

Remaining at the farmhouse for only a brief time the fugitives continued their flight greatly refreshed and strengthened. The time had now come for separation; and Barclay Coppoc, successfully concealing his identity, made his way back by railroad to his Iowa home. Here he arrived on December 17, 1859,<sup>68</sup> "worn almost to a skeleton by starvation and exposure." On the previous day his brother Edwin, loaded with chains and shackles, had yielded his life upon a Virginia scaffold at Charlestown.

#### THE REQUISITION FROM VIRGINIA

Barclay Coppoc's battle for life had but its beginning in the struggle which he had made in the flight through the mountains of western Pennsylvania and thence across the Mississippi Valley to Iowa. Scarcely had he reached his home than his whereabouts were betrayed to the Virginia authorities. Governor Letcher of Virginia, just entering upon his initial term of office as chief magistrate of the Commonwealth,<sup>69</sup> was anxious to prove himself a true defender of the honor and safety of his State. Accordingly, on January 23, 1860, his agent, one Mr. C. Camp, appeared at Des Moines, Iowa, bearing requisition papers directed to the Governor of Iowa for one Barclay Coppoc, reputed to be a fugitive from the justice of Virginia.<sup>70</sup>

<sup>68</sup> Aurner's *Topical History of Cedar County, Iowa*, Vol. I, p. 424.

<sup>69</sup> Governor Letcher had but a few days since succeeded Wise as Governor of Virginia and had thus fallen heir to all the latter's controversies.

<sup>70</sup> See letters from Governor Kirkwood to Governor Letcher dated January 23 and 24, 1860.—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 394-396.

This attempt of the Governor of Virginia to secure the rendition of Coppoc was received with unfeigned surprise in Iowa and caused no little apprehension upon the part of Coppoc's friends and of the anti-slavery people of the State who were cognizant of the agent's arrival. Since February 12, 1793, there had been upon the United States statute books a law providing for the rendition of fugitives from labor and justice. Courts had reviewed it, but had added nothing to its clearness. It had been modified by a second enactment dating from September, 1850, which only added still further to the uncertainty of its meaning. Difficulties concerning the act of 1793 might not have arisen, however, if it had not contained within it the essence of another question which was later to foment the bitterest sectional and partisan strife of the century.

With the adoption of the Federal Constitution this question had been ushered into our national life by a series of compromises. These compromises, instead of definitely settling the question, had created a controversy which gathered force as the Nation expanded, giving rise to other compromises, until finally the question of slavery and its solution composed the entire background of political, social, and economic life. Lines of demarcation appeared, creating a North and a South, a slave and a non-slave section.

At this time (1859) the partisan and sectional strife had nearly reached its height. National fugitive slave laws, depending upon the statute of 1793 and article IV, section 2, clause 3, of the Federal Constitution, were enacted. The too rigid enforcement of these laws by the South, as well as the same section's desire to see such laws enforced either literally or according to their constructive meaning, had led to intense bitterness of feeling.

The feeling between the North and the South grew notably more bitter whenever a controversy arose concern-

ing the construction to be placed upon legal processes providing for the return of interstate fugitives. It is not to be denied that the officers of the law at the North did illegally assist fugitives from labor at the South to conceal themselves and to remain concealed, thus defeating the end of the fugitive slave laws. On the other hand, as one writer declared, "no requisition from a Northern State is treated with respect when the surrender conflicts with their own laws or with the policy of slavery, which is with them always paramount to all other considerations."<sup>71</sup> Lapse of time instead of healing the misunderstanding only added to its intensity.

Laws for the return of fugitives from labor and of fugitives from justice had been indiscriminately violated or openly interpreted in a manner to suit the occasion until it was nearly impossible to decide upon an authoritative interpretation of the laws for the return of such fugitives. In many instances no distinction had been made between the interpretation and application of the laws providing for the return of fugitive slaves and the, in some respects, radically differing laws for the return of criminals fleeing from justice. If such a distinction was made it often depended upon whether the demanding State was of the North or of the South, free or slave. Such misinterpretations, or lack of just interpretations, were productive of much bitter feeling and no little abuse of the fugitive laws.

The situation had been further intensified by a decision of the United States Supreme Court in 1857<sup>72</sup> which, to the anti-slavery people of the North, seemed to be the last possible insult which could be offered. A little more than two

<sup>71</sup> Editorial from the *New York Evening Post* quoted in *The Tipton Advertiser*, Vol. VII, March 15, 1860.

<sup>72</sup> The famous Dred Scott decision handed down by Chief Justice Taney of the United States Supreme Court.

years later came the John Brown raid upon Harper's Ferry, which seemed to the South a retaliatory blow by the people of the North in return for the iniquitous decision above mentioned. It was evident to all that a crisis was impending.

Such was the inflammatory condition of public sentiment when Mr. Camp, the agent of Virginia, appeared at Des Moines and presented his papers to Governor Kirkwood. Surprised as the people of Iowa were at the requisition, the northern sympathizers of the South were more astonished at the attitude taken by Governor Kirkwood upon the question thus presented to him for consideration and action. The pro-slavery sympathizers took it as a matter of course that the demand would be honored. But the Governor of Iowa thought differently and refused to honor the papers presented, alleging irregularities as the grounds of his refusal.<sup>73</sup> This refusal and the issue growing out of it furnish an interesting sidelight upon the partisan feeling of the time, as well as providing the basis for a constitutional study of the questions involved.

At this point it may be well to trace through to its conclusion the tale of Barclay Coppoc's second flight for life and liberty. This account will furnish the proper historical setting for what is to follow.

Mr. Camp, the emissary of the Governor of Virginia, upon presenting his papers to Governor Kirkwood was courteously requested by the latter to leave the papers with him until after dinner at which time the Governor promised to make his reply.<sup>74</sup> Mr. Camp did as requested, and upon calling for the reply later was met with a refusal to honor the requisition as noted above. The agent, considerably sur-

<sup>73</sup> See letters from Governor Kirkwood to Governor Letcher, dated January 23, 1860.—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 394, 395.

<sup>74</sup> *The Dubuque Herald*, Vol. XIX, No. 5, February 1, 1860.

prised and no doubt much nettled, undertook by dint of argument to convince the Governor that he was wrong, unjust, and incidentally guilty of perverting the letter of the Federal Constitution and the statutes of Congress.

During the progress of the discussion two members of the legislature, which was then in session, having business with the Governor, chanced to enter the executive office.<sup>75</sup> The excited Virginian loudly continued the discussion in spite of the protest of the Governor, who reminded him that he had supposed he wished to keep the matter quiet. Camp replied that he did not care who knew it now since the request had been refused.<sup>76</sup> The intruders remained only long enough to grasp the situation and then withdrew.

The two individuals who had thus learned of the effort being made to secure Barclay Coppoc and return him to Virginia felt that there was not a moment to lose if they would save Coppoc from his threatened fate. Hastily communicating with several other members of the legislature, it was decided to send word at once to Coppoc to flee from the State.<sup>77</sup> Making up a generous purse among themselves to defray the expenses of the messenger who must be sent with the warning, they commissioned Isaac Brandt to find a man who was willing and physically able to endure a winter's journey to Springdale — a journey which must be made on horseback.<sup>78</sup>

<sup>75</sup> B. F. Gue and Ed. Wright were the two intruders.— Gue's *John Brown and his Iowa Friends* in *The Midland Monthly*, Vol. VII, p. 273.

<sup>76</sup> Gue's *John Brown and his Iowa Friends* in *The Midland Monthly*, Vol. VII, p. 274; and Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 391.

<sup>77</sup> Gue's *John Brown and his Iowa Friends* in *The Midland Monthly*, Vol. VII, p. 274. Among the legislators present at the conference were J. W. Cattell, J. B. Grinnell, David Hunt, Amos Hoag, Isaac Brandt, and other well known anti-slavery men.

<sup>78</sup> Gue's *John Brown and his Iowa Friends* in *The Midland Monthly*, Vol. VII, p. 274.

Brandt soon found a former plainsman who was willing to make the trip, without sleep or rest if need be.<sup>79</sup> A message<sup>80</sup> to John H. Painter of Springdale was then prepared; and in less than two hours after the two men had left the room of the Governor the messenger was speeding to the eastward on his one hundred and sixty-five mile ride.<sup>81</sup> His instructions were to reach Springdale as soon as his endurance and that of the horses furnished at the Underground Railway stations would permit. It was confidently expected that Camp, failing to have his papers honored, would take the first stage for Iowa City and then proceed to Springdale, arrest and secure Coppoc before the latter's friends could do anything to save him. The stage traveled day and night, and so it was imperative that the warning should reach Springdale as soon as possible.

On the morning of January 25th the messenger arrived at Painter's, delivered his message, and by so doing warned Coppoc and his friends of the impending danger. Camp, upon reaching Iowa City, heard of the betrayal of his plans and of the preparations for his reception in case he should appear in Springdale. Thinking more of his own personal safety than of duty he prudently passed on to Muscatine to await the coming of corrected papers.<sup>82</sup> It is related that

<sup>79</sup> This man's name was Williams. Nothing concerning his life seems to have been preserved.

<sup>80</sup> The following message was sent to John H. Painter:

"DES MOINES, January 23, 1860.

"JOHN H. PAINTER — There is an application for young Coppoc from the Governor of Virginia, and the Governor here will be compelled to surrender him. If he is in your neighborhood, tell him to make his escape from the United States. YOUR FRIEND."

— Gue's *John Brown and his Iowa Friends in The Midland Monthly*, Vol. VII, p. 274.

<sup>81</sup> Gue's *John Brown and his Iowa Friends in The Midland Monthly*, Vol. VII, p. 274.

<sup>82</sup> Gue's *John Brown and his Iowa Friends in The Midland Monthly*, Vol. VII, pp. 274, 275.

after a time he became so tantalized by the sarcastic remarks of the good people of Muscatine, on account of his over-scrupulous care for his own safety, that he repaired to Springdale and there actually saw Coppoc, but fearing to attempt the service of the warrant for arrest, he immediately returned to Muscatine.

Upon the return of Coppoc from Virginia about one hundred<sup>83</sup> of his Springdale friends, fearing that such an attempt as this would be made, had organized themselves into an armed association for the purpose of forcibly resisting any attempt to arrest him. This loyal group met and drilled regularly. One Iowa newspaper correspondent in a discussion of the affair facetiously wrote that "such an array of weapons has not been seen since the days of Falstaff's ragged regiment."<sup>84</sup> Relays of these men were constantly on duty to watch over Coppoc in order to prevent surprise. To further insure his safety only a few of Coppoc's most trusted friends knew continually where he was. He was never seen at the same place at night as during the day; and rarely was he seen at all even by the few trusted friends.

These vigilant measures, however, were not adopted as the direct result of the alarming messages from Des Moines. At a previous time a report had come to Springdale that a United States Marshal was on the way to that village to arrest Coppoc.<sup>85</sup> This was the direct cause of the organization of the armed company for his protection. When the message came from Des Moines immediate action was thought to be imperative and vigilance was redoubled.

<sup>83</sup> Gue's *John Brown and his Iowa Friends* in *The Midland Monthly*, Vol. VII, p. 274, says they were seventy-five in number. See also *The Tipton Advertiser*, Vol. VII, No. 9, March 1, 1860.

<sup>84</sup> *The Dubuque Herald*, Vol. XIX, No. 5, February 1, 1860.

<sup>85</sup> *The Dubuque Herald*, Vol. XIX, No. 5, February 1, 1860.

Coppoc was seen less than before, and he was always under heavy guard. Measures were also taken to send him into Canada at a moment's notice.

The corrected rendition papers were received by Mr. Camp at Muscatine on February 10, 1860, and, upon presentation to Governor Kirkwood, being found correct, were promptly honored. Camp, however, instead of hastening at once to Springdale in order to serve the warrant, timidly returned to Muscatine from Des Moines.

#### THE SECOND FLIGHT OF BARCLAY COPPOC

Upon receipt of the news of the arrival and honoring of the corrected papers, word was again sent to Coppoc and his friends at Springdale. The evening of the day upon which the messenger arrived saw a sleigh hastening toward Mechanicsville, a small town to the north. This sleigh contained John H. Painter as driver, and Barclay Coppoc and Thaddeus Maxson as passengers. The arguments of friends had convinced Coppoc that he must flee, though he strongly objected to a proceeding which to him seemed cowardly. Since he had but lately suffered from a severe attack of asthma as the result of his exposure in the mountains of Pennsylvania, he was barely able to take care of himself.<sup>86</sup> Thaddeus Maxson was therefore selected to accompany and care for Coppoc in his flight.

Boarding the night train at Mechanicsville, Maxson and Coppoc took passage for Chicago. From Chicago they continued to Detroit, intending to cross into Canada as a place of refuge. Upon their arrival at Detroit, however, word was received from John Brown, Jr., asking them to come to his home at Jefferson, Ohio, which they decided to do. Here they found F. J. Merriam and Owen Brown. From

<sup>86</sup> See a letter supposed to have been written by Mrs. Coppoc to Governor Letcher of Virginia in February, 1860, quoted from the *Chicago Tribune* in the *Daily Iowa State Register*, Vol. I, No. 40, February 23, 1860.

Jefferson, Coppoc and Maxson proceeded to Dorset, Ohio, where they remained under heavy guard for more than thirty days, at the end of which time, thinking that the field was clear in Iowa, they returned to Springdale.

Mr. Camp did not go in person to serve his papers, but, it is said, secured a deputy who agreed to take the papers to Springdale and serve them. The deputy went to Springdale, inquired for Coppoc, and not receiving any information concerning the fugitive returned to Muscatine and reported his inability to serve the papers. Upon receiving this report Mr. Camp returned to Virginia, where he doubtless felt more secure.

#### THE POLITICAL CONTROVERSY OVER THE COPPOC CASE

As has been indicated the refusal of Governor Kirkwood to honor the first set of requisition papers aroused considerable acrimonious discussion. This controversy, due in part to the defective nature of the papers presented, at once assumed two phases: first, a partisan political controversy; and second, a constitutional controversy between the Governors of the States concerned. Political capital was also sought to be made out of the constitutional aspect of the question by the chief executive of Virginia.

One of the most spectacular campaigns in the political history of the United States was now approaching, and faction was already aligning itself against faction in preparation for the struggle. The South as well as the North now realized that the issues of the coming campaign, as foreshadowed in the events of the past two or three years, would be those which must definitely decide the status of the institution which had been slowly but surely forcing itself to the front as the paramount issue. Thus the political factions representing the opposing sides in the approaching battle of ballots were ready to seize upon any incident which gave promise of redounding to their advantage. As a mat-

ter of fact there was more pro-slavery sentiment in Iowa than many leaders in the political contests of the times could well reconcile with conditions in a free State, a great majority of the people of which were unalterably opposed to any further extension of slavery. No opportunity was lost by this vigorous minority faction to capitalize the most insignificant incident for the purpose of inflaming the popular mind and thereby possibly adding to its own numerical strength.

No sooner had the news of the refusal to grant extradition been announced to the general public than the members of the pro-slavery faction busily set to work in an attempt to unearth something which would enable them to cast discredit upon the anti-slavery administration of Governor Kirkwood. The investigators were prepared to go to any length in their efforts to prove that the State administration was in open and avowed sympathy with the raid upon Harper's Ferry.

These opposition Democrats first assailed the Governor through the ever ready medium of the press, and later carried the issue into the General Assembly which was then in session. Through the press it was charged that the chief executive had been guilty of official wrong-doing. The charges were: first, "making public the fact of the serving of the requisition, and thus giving Coppoc a chance to escape"; second, "that he did not comply with the requisition"; and third, that not complying with it, "he did not secure Coppoc till a *legal* requisition came from the Governor of Virginia."<sup>87</sup>

Against these partisan allegations of malfeasance in office, the Republican press of the State took up the gauntlet in the Governor's defense. Of the several charges made by

<sup>87</sup> *Davenport Weekly Gazette*, Vol. XIX, No. 27, March 1, 1860.

the opposition only one need be noticed here, namely, the accusation that the Governor wrongfully gave out information which should have remained secret, thus enabling Coppoc to escape. To this charge Governor Kirkwood replied at length in a special message to the House of Representatives on March 3, 1860; and the answer which he made was not then and has not since been controverted.<sup>88</sup>

It seems that the indiscreet individual in this particular incident was the Virginia emissary, Mr. Camp, and not the Governor of Iowa. The latter clearly states that the "fact that an agent of Virginia was here, with a requisition for Coppoc, became publicly known in this place, solely through the acts of that agent himself. . . . He sat in my office conversing freely with me on the subject. During our conversation, other persons came in on business with me, and to my surprise he continued the conversation in their presence. . . . In this manner the fact that a requisition had been made for Coppoc became known in this place."

Nor was this all. The Governor further states: "I denied myself what I greatly desired, the privilege of consultation with gentlemen in whose opinions I had confidence, touching the legality of the papers submitted to me, lest the matter might thereby, through inadvertence, become known."<sup>89</sup> Thus it appears that the Iowa executive did his part in maintaining a proper secrecy, and that he spoke the truth when he declared that "if the Governor of Virginia has cause for complaint against any person on this point, it is against his own agent, and not against me."<sup>90</sup> Nor was the

<sup>88</sup> For the full text of the message see Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 380-393.

<sup>89</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 391, 392. See also the *Davenport Weekly Gazette*, Vol. XIX, No. 27, March 1, 1860.

<sup>90</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 390.

Republican press of the State slow to endorse the Governor's statement. "Sam Kirkwood is not the man", said the *Davenport Gazette*, "to tremble at the threats of John Letcher or of the aiders and abettors of slavery who represent the Democracy of Iowa".<sup>91</sup>

On the other hand, the agent of the State of Virginia seems to have sought an opportunity to further the cause of his sympathizers in Iowa — especially in the capital city where their attacks were of more than ordinary violence. He repeatedly manifested an entire willingness to discuss the question of the requisition and its refusal wherever and whenever he could find anyone to listen to his tale of reputed abuse at the hands of the Governor of Iowa. This willingness to talk on the part of Mr. Camp is amply borne out by a quotation from one of the leading newspapers of that day, whose Des Moines correspondent wrote as follows concerning the incident:

It was Mr. Camp, and not Gov. Kirkwood, who made public that the "requisition" was here. So soon as he learned that an order of arrest would not be granted he spoke of it publicly. In the Governor's office in a long conversation about "John Brown" with Mr. Cooper, of Poweshiek county, the conversation being had on the very day the requisition was presented, Mr. Camp talked about the whole matter, while persons were all the while entering and passing out of the room, this too, after Gov. Kirkwood had intimated to Mr. Camp that he ought to keep the affair secret. So much for the charge that the matter was made public by the Governor or his friends.<sup>92</sup>

By the statement of such uncontrovertible facts Governor Kirkwood's friends met the insinuations of the opposition. The controversy waxed warmer and warmer until the whole matter was brought to a crisis by the delayed publication of

<sup>91</sup> *Davenport Weekly Gazette*, Vol. XIX, March 8, 1860.

<sup>92</sup> Quoted from the *Dubuque Times* in the *Davenport Weekly Gazette*, Vol. XIX, No. 27, March 1, 1860.

a special message upon the affair, communicated by Governor Letcher of Virginia to the Senate and House of Delegates of that State.<sup>93</sup> In this message Governor Letcher recapitulated and enlarged upon the charges against Governor Kirkwood which had earlier been made by his agent, abetted by the opposition press in Iowa. This message, moreover, gave to the charges what they had hitherto lacked — official recognition. In Iowa the message of Governor Letcher immediately removed the controversy from the State press to the General Assembly. Here it assumed a more serious aspect.

#### THE CONTROVERSY IN THE LEGISLATURE

About the time of the honoring of the second and corrected requisition upon the Governor of Iowa it appears that Governor Letcher submitted to the Virginia Senate and House of Delegates his message concerning the Coppoc affair. In this message he publicly and officially accused Governor Kirkwood of the commission of gross official wrongs, which, if proven, would have justified the latter's removal from office. These accusations by Governor Letcher briefly stated were: that the reasons assigned for refusal were in his judgment "exceedingly frivolous"; that the Iowa executive had knowingly connived at the escape of Coppoc by publishing information concerning the requisition, and by, in all likelihood, either suggesting the sending of a messenger to warn Coppoc of his danger or of taking such action as would effect that result in the end; that the chief executive of Iowa had in fact either knowingly or

<sup>93</sup> This message was sent by Governor Letcher to the Virginia Senate and House of Delegates on February 13, 1860, three days after the corrected requisition had reached Mr. Camp at Muscatine — doubtless before Governor Kirkwood had honored it, since means of communication were not as rapid then as now. For the complete text of Governor Letcher's message see Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 396-402.

ignorantly violated the requisition laws of his own State in his desire to protect a criminal; and, that by refusing to honor the requisition when presented he had committed a serious violation of the comity existing between sister States.<sup>94</sup>

Thus did the Governor of Virginia accuse his brother executive in Iowa of seeking to thwart the execution of Virginia laws by having "disregarded, contemned and trampled upon" them in his desire to aid the escape of one who was "blackened with crime, and whose hands are stained with the blood of innocent and unoffending citizens of the slaveholding states".<sup>95</sup>

It was this message of Governor Letcher which led Senator Wilson of Jefferson County, on February 27th, to introduce in the Iowa Senate a resolution of inquiry directed to Governor Kirkwood and calling upon him for specific information concerning the Coppoc case.<sup>96</sup> The resolution was merely one of friendly inquiry and was designed to forestall any hostile efforts along a similar line upon the part of the Democratic wing of the Senate.<sup>97</sup>

<sup>94</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 396-402.

<sup>95</sup> The message of Governor Letcher.—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 402.

<sup>96</sup> The resolution of inquiry as originally introduced in the Iowa Senate on February 27, 1860, was as follows:

"WHEREAS, The fact of a requisition from the Executive of Virginia upon the Executive of this State, for the rendition of one Coppic, as a fugitive from justice, and of the refusal of such demand, has become a matter of public notoriety, and

"WHEREAS, It appears from the public papers that the Governor of Virginia has sent a special communication to the Legislature of his State, on the subject; therefore, be it

"Resolved, That the Governor of this State be respectfully requested to communicate to this House, the facts touching said demand, and his reasons for the refusal thereof."—*Senate Journal*, 1860, pp. 329, 330. See also the *Davenport Weekly Gazette*, Vol. XIX, No. 28, March 8, 1860.

<sup>97</sup> *Daily Iowa State Register*, Vol. I, No. 46, March 1, 1860.

The Wilson resolution did not at first create any marked stir among either the Republicans or the Democrats. The Republicans feeling sure that their resolution would easily pass without amendment, inadvertently permitted a number of their members to absent themselves from the sessions of the Senate. The Democrats were not slow to see an opportunity and to take advantage of it.<sup>98</sup> Upon discovering the absence from the session of enough Republicans to render it possible for the Democrats to introduce and pass amendments to the Wilson resolution, Senator Neal immediately introduced and rushed through "an offensive and irrelevant amendment", which was passed by a strict party vote amid the indignant protests of the Republicans present.<sup>99</sup> Having successfully accomplished this bit of political strategy, the opposition immediately rushed the amended resolution to its final passage.

The amendment which was added to the original resolution plainly implied that Governor Kirkwood had corresponded with Coppoc concerning the requisition and had also been guiltily cognizant of the sending of the warning word. It was naturally considered by the Governor as an insult, and on the following day he wrote a stinging and caustic reply. Following the reading of this message by the clerk of the Senate, there occurred "a wonderful flutter

<sup>98</sup> *Daily Iowa State Register*, Vol. I, No. 46, March 1, 1860; *Davenport Weekly Gazette*, Vol. XIX, No. 28, March 8, 1860; and *Senate Journal*, 1860, p. 330.

<sup>99</sup> Senator Neal's amendment added the following words to Senator Wilson's resolution: "Including a copy of the requisition and accompanying papers of the Governor of Virginia, and all correspondence with Coppic, or any other person, in reference to said requisition. Also, to inform the Senate by what means Coppic obtained the information that there was a requisition from the Governor of Virginia upon the Governor of Iowa, for his surrender; and if the fact of said requisition being made, was communicated to any person, or made public, before the answer was given by the Governor of Iowa, to the Governor of Virginia."—*Senate Journal*, 1860, p. 330. See also the *Davenport Weekly Gazette*, Vol. XIX, No. 28, March 8, 1860.

among the Democratic Senators",<sup>100</sup> who now saw that they had unintentionally "caught a Tartar" and that they must make an effort to extricate themselves from an unpleasant situation. The response of the Governor "fell like a crushing avalanche upon the Democracy, utterly annihilating all hopes they may have entertained, of extracting any party comfort or party aid out of that affair."<sup>101</sup> The opponents of the Governor, therefore, immediately faced about and began filibustering in an effort to shift the blame for the passage of the unlucky resolution.

The Republicans, who were now thoroughly enjoying the discomfiture of their opponents, steadily and successfully resisted all efforts of the Democrats to force through a resolution of apology until they (the Republicans) were ready for its consideration. During this parliamentary war in the Senate, many amusing incidents occurred as the result of the Democratic efforts to allay the righteous indignation of the Governor. Senator Hammer (Democrat) whose seat was next to the middle aisle, asked for and was granted the privilege of addressing the Senate upon the subject of the Governor's message. While delivering his speech he walked up and down the aisle, taking a sip from a glass of water on his desk whenever he chanced to return to that vicinity. This procedure continued until it proved too much for Senator Watson of Iowa County. The latter arose to a point of order, and when recognized inquired "whether it was competent for a wind-mill to be propelled by water." The sally convulsed the Senate and galleries with laughter, while Senator Hammer collapsed, wholly unable or unwilling to continue his speech.<sup>102</sup>

The cause of all this parliamentary disturbance was the

<sup>100</sup> *Davenport Weekly Gazette*, Vol. XIX, No. 28, March 8, 1860.

<sup>101</sup> *The Washington Press* (Iowa), Vol. IV, No. 43, March 14, 1860.

<sup>102</sup> *Davenport Weekly Gazette*, Vol. XIX, No. 28, March 8, 1860.

manner in which the Governor took occasion to express his mind upon the proper form in which a request for information should be made. In a communication to the Senate he declared that he had examined the resolution with much care and had concluded that he "ought not to answer it." He added that it was perfectly proper for the Senate to ask for information and to such a request he would "communicate all facts within my knowledge, in any way connected therewith, whenever I can do so consistently with my self-respect, and with the respect and consideration which, in my judgment, are due to the department of our government which, for the time being, I have the honor to represent. I cannot, however, do so in response to a resolution which assumes that, in this matter, I have done acts which the common judgment of your body would pronounce to be improper in any person holding my official position."<sup>103</sup> With this stinging rebuke directly leveled at the minority faction in the Senate, the indignant Governor closed his communication by recommending that the resolution be given further consideration, since he hesitated to believe that such a resolution was the "well considered intention" of that body.

As stated above, the Republican majority in the Senate effectually blocked the passage of any resolutions, apologetic in aim, proposed by the now fully repentant Democratic minority. On February 29th Senator Wilson of Jefferson County, the mover of the original resolution which had been so garbled by the Democrats, offered a new resolution which was practically a duplicate of his former resolution.<sup>104</sup> Much acrimonious discussion arose concern-

<sup>103</sup> *Senate Journal*, 1860, p. 340.

<sup>104</sup> The following is the portion substituted by Senator Wilson's resolution: "Resolved, That the Governor be requested to communicate to the Senate, all facts touching said demand, and his reasons for the refusal thereof, including a copy of the requisition and accompanying papers, and all his correspondence in reference thereto, and all facts connected therewith, or in any way growing out of the same."—*Senate Journal*, 1860, p. 343.

ing the adoption of this substitute resolution, the Democrats again attempting to defeat its object by adding amendments. To defeat this effort the previous question was called for and sustained; and the Democratic members, then out of spirits, placed themselves on record as opposing a call upon the Governor for information which they had expressed a desire to obtain a few days before. The resolution of Mr. Wilson was adopted by a party vote — the vote standing nineteen to eighteen in favor of the adoption of the resolution.<sup>105</sup>

Neither the Republicans nor the Democrats, however, thought that such a resolution made full reparation to the Governor. Senator Wilson's resolution had not gone far enough; and yet the Republicans had steadily and persistently refused to sanction any resolution of apology which came from the Democratic side. Both factions wished to apologize, but neither was willing to approve a resolution of that nature coming from the opposing faction, until Senator Drummond of Benton County offered a resolution which, after some filibustering, was adopted by a vote of twenty-eight to eight.<sup>106</sup>

During the discussion of Senator Drummond's resolution an incident occurred which reveals the feeling of sympathy for Coppoc which pervaded the General Assembly and the State at that time. Senator Williams of Mahaska County made an inquiry of Senator Drummond which elicited from the latter the following reply:

<sup>105</sup> *Senate Journal*, 1860, p. 345.

<sup>106</sup> Senator Drummond was a Republican. The following is the text of the resolution moved by Senator Drummond:

"*Resolved, further, That by the passage of its original resolution, on the 27th ult., calling for information as to the facts connected with the requisition of the Executive of Virginia, for one Barclay Coppie, the Senate intended nothing discourteous to the Executive, nor any implication of a failure to discharge his constitutional duty, but meant only to call for the facts.*"—*Senate Journal*, 1860, p. 356.

It is true that I immediately said [upon hearing of the presenting of the requisition] "I would give five dollars toward paying a messenger to go and apprise Coppic of his danger," and I would have done so if I had had the opportunity. I say it, sir, openly and boldly that never with my consent shall the remaining son of that widowed Quaker mother at Springdale, Iowa, be handed over to the tender mercies of Virginia. The hand of God is on him, and he is sinking beneath consumption; and never with my consent shall he be swung off a Virginia gallows, to further appease Virginia slave driving vengeance.<sup>107</sup>

This bold expression of sentiment at once aroused a storm of protest and recriminating replies. But the incident happily closed with the calling of the roll on the adoption of the resolution.

The misunderstanding between the Senate and Governor Kirkwood was thus brought to a happy and satisfactory close, and the previously existing good feeling was restored. The whole incident was occasioned by a too partisan desire upon the part of the pro-slavery members of the upper house to carry out the wishes of the pro-slavery press which had no other end in view than the accumulation of political capital for the approaching presidential campaign. But, having seen their mistakes, they were as anxious as the Republicans to make amends for the insult offered the Governor.

Before the imbroglio in the Senate had been brought to a satisfactory conclusion, the House of Representatives, through its Democratic minority, also became aroused, and Representative Bennett, a bitter Democratic partisan from Marion County, introduced a resolution of inquiry which in effect was but a copy of the offensively amended resolution of the Senate, which had elicited the merited rebuke of the Governor. Immediately upon its introduction Representative Gurley of Scott County offered a substitute which

<sup>107</sup> *Davenport Weekly Gazette*, Vol. XIX, No. 28, March 8, 1860.

sought to remove all danger of offense.<sup>108</sup> After many roll calls upon the original and substitute resolutions, the latter was adopted by a vote of forty-seven to twenty-four.<sup>109</sup> It was this cautiously worded House resolution to which Governor Kirkwood responded in his lengthy message to that chamber on March 3, 1860, dealing with the Coppoc case and including all the papers connected therewith.<sup>110</sup>

This dignified and straightforward response of the Governor, however, was not destined to escape the sarcastic shafts of the disappointed Democrats. Following the receipt and reading of the message in the House, Representative Claggett moved to have it printed for public distribution.<sup>111</sup> Later he moved to have printed "5000 copies of the message of the Governor of Virginia, relating to the requisition for Barclay Coppie, to be distributed among the members of this House, for circulation."<sup>112</sup> To this concealed sarcasm, Representative Gurley of Scott retorted with the following amendment: "Provided this House receives official information that the State of Virginia has not sufficient funds to print the message of her

<sup>108</sup> The substitute resolution moved by Representative W. H. F. Gurley was:

"WHEREAS, There has lately appeared in the public press, a message purporting to have been sent by the Governor of the State of Virginia to the Legislature of that State, in which it is stated that a requisition had been made by the Executive of that State, upon the Executive of this State, for the rendition of one Barclay Coppie, as a fugitive from justice; and that the requisition had been refused, for reasons stated in said message to be 'exceedingly frivolous, and such as have in no previous instance, to my knowledge, influenced the action of any State Executive in its intercourse with this Commonwealth.' Therefore, be it

"Resolved, That the Governor of this State is requested to communicate to this House, all the facts, together with a copy of all papers and correspondence connected with or growing out of said requisition, and its refusal."—*House Journal*, 1860, p. 333.

<sup>109</sup> *House Journal*, 1860, p. 337.

<sup>110</sup> *House Journal*, 1860, p. 346.

<sup>111</sup> *House Journal*, 1860, p. 356.

<sup>112</sup> *House Journal*, 1860, p. 356.

Governor."<sup>113</sup> The resolution and its amendment, after lengthy and humorous discussion, prevailed by a vote of forty-four to twenty-three and the legislative phase of the Coppoc incident closed.<sup>114</sup>

#### THE LEGAL AND CONSTITUTIONAL ASPECTS OF THE CASE

As a result of the disturbed political conditions of the times considerable discussion arose concerning the legal right of Governor Kirkwood to refuse to honor the demand of Governor Letcher. Some people maintained that the course of action for a State executive in such matters was prescribed by Federal statutes which were mandatory in their nature, defining a purely ministerial duty. Much emphasis was placed upon the matter of comity due the processes and acts of a sister State. Others argued with equal warmth that the Federal statutes in question could not have mandatory effect upon a State executive, since the Federal Congress possessed no power by which it might compel a State executive to honor a demand of this nature. It was held that the duty to honor a requisition is not ministerial but discretionary and judicial, and that comity as to the processes of a sister State was not applicable in this instance.

The manner of exercising the power to extradite is based exclusively upon the United States Constitution<sup>115</sup> and the statutes of Congress — notably upon the act of 1793,<sup>116</sup> which states that "it shall be the duty" of a State executive

<sup>113</sup> *House Journal*, 1860, p. 356.

<sup>114</sup> *House Journal*, 1860, p. 357.

<sup>115</sup> Article IV, Sec. 2, Cl. 2 of the United States Constitution states that "A person charged in any state with treason, felony or other crime, who shall flee from justice and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime."

<sup>116</sup> *Ex parte Morgan*, 20 Federal Reporter 298.

to surrender a fugitive from the justice of another State when the demand has been properly made by the Governor of the demanding State. Moreover, the duty to surrender has been interpreted by our highest judicial tribunal as being declaratory of a moral duty only and not in any sense mandatory and compulsory.<sup>117</sup>

Chief Justice Taney in rendering the decision in the case of *Kentucky vs. Dennison* contended that the Governor of a State may set the Federal constitutional and statutory provisions on extradition entirely at naught — the power of the State executive in such instances being “absolute, unlimited, and arbitrary.”<sup>118</sup> If the demand meets with refusal, the State making such demand must submit, there being no alternative<sup>119</sup> since Congress, according to well established precedent, cannot coerce a State officer, as such, to perform any duty. Congress may authorize a State officer to perform a certain duty, but from this it does not necessarily follow that such officer may be coerced by this body.<sup>120</sup> Neither may he be so compelled by any judicial tribunal in our land.<sup>121</sup> The act of surrendering is purely optional upon the part of the Governor of the State upon whom the demand is made.<sup>122</sup> No punishment is provided for refusal to honor requisitions and courts have held that they cannot compel performance.<sup>123</sup>

<sup>117</sup> *Kentucky vs. Dennison*, 24 Howard 66.

<sup>118</sup> *In re Voorhees* (N. J.), 3 Vroom 141; *Kentucky vs. Dennison*, 24 Howard 66.

<sup>119</sup> *Kentucky vs. Dennison*, 24 Howard 66; *In re Voorhees* (N. J.), 3 Vroom 141; *Taylor vs. Taintor*, 16 Wallace 366; *Ex parte Siebold*, 100 United States 391.

<sup>120</sup> *Kentucky vs. Dennison*, 24 Howard 108.

<sup>121</sup> *Kentucky vs. Dennison*, 24 Howard 66; *Ex parte Siebold*, 100 United States 391; *In re Voorhees* (N. J.), 3 Vroom 141.

<sup>122</sup> *In re Fetter* (N. J.), 3 Zab. 311.

<sup>123</sup> *In re Voorhees* (N. J.), 3 Vroom 141; *Kentucky vs. Dennison*, 24 Howard 66.

Anti-slavery sentiment in the North at this time had gone far toward crystallizing northern sentiment to the effect that a State executive in considering and acting upon matters of interstate rendition could exercise discretionary power.<sup>124</sup> Pro-slavery southern sentiment was equally vehement in maintaining that ministerial<sup>125</sup> power alone belonged to the executive in such matters — to the exclusion of all judgment and discretion. The decisions of the courts, however, seem neither to justify nor support such a restricted view of the question.

The clause of the Federal Constitution and the statutes of Congress governing interstate rendition give to the State executive the power to determine whether the demand made is a proper one. In so acting his determination partakes of the nature of a judicial act.<sup>126</sup> According to Chief Justice Carter of the District of Columbia the province of the executive is clearly to see that a crime has been substantially charged, and when, after proper consideration of the demand and of the circumstances arising in the demanding State which seemed to render the demand necessary, he is satisfied that a crime is thus properly charged, to grant the request.

This recognition of a requisition cannot exclude all exercise of discretion or judgment; hence it must be a judicial and discretionary act.<sup>127</sup> Upon this particular point the Federal Supreme Court has most lucidly stated that such an act cannot, on account of its nature, exclude all exercise of

<sup>124</sup> Moore's *Extradition and Interstate Rendition*, Vol. II, p. 988.

<sup>125</sup> "Ministerial power" in this sense means that a State executive could do no more upon the presentation of a demand than "to cause the party to be arrested, and delivered to the agent or authority of the state where the crime was committed." — *Kentucky vs. Dennison*, 24 Howard 106.

<sup>126</sup> *In re Cook*, 49 Federal Reporter 833.

<sup>127</sup> *Roberts vs. Reilly*, 116 United States 80; Moore's *Extradition and Interstate Rendition*, Vol. II, p. 987.

judgment.<sup>128</sup> Further than this, it has been held that in arriving at such a conclusion concerning the propriety of the demand the executive has, of necessity, an ultimate discretion.<sup>129</sup> This position, assumed by our higher courts, would seem to effectually dispose of the contention that an executive has only a ministerial power in matters of this nature.

Concerning the question of comity which was advanced in connection with the Virginia executive's attempt to secure Coppoc's rendition, there is, however, not the same concord of judicial sentiment. Nevertheless, while there is marked disagreement, judicial opinion seems to incline toward the position that interstate rendition is regulated by law and cannot be exercised upon the basis of comity alone.<sup>130</sup> Judicial opinion has even gone so far as to state that "no such power [to extradite] can be exercised by the chief executive of a state on the ground of comity."<sup>131</sup> Moreover, quoting from a Federal decision, "Whether any government is *bound* to make such surrender . . . upon the principle of the comity of nations, . . . is held by some writers of high authority upon the law of nations"<sup>132</sup> not to exist as a duty.

Thus it may be concluded from a careful perusal of the opinions of the courts that Iowa's chief executive acted upon well sustained legal and constitutional grounds.

<sup>128</sup> *Roberts vs. Reilly*, 116 United States 80; *Moore's Extradition and Interstate Rendition*, Vol. II, p. 987.

<sup>129</sup> *United States vs. Pope*, 24 Internal Revenue Record 29; *Taylor vs. Taintor*, 16 Wallace 366; *Roberts vs. Reilly*, 116 United States 80; 14 *Albany Law Journal* 190; *Ex parte Beggel*, 114 United States 642; *In re Jackson*, 2 Flippin 183; 13 Federal Cases, No. 7125; *In re Kingsbury*, 106 Massachusetts 223; *Jones vs. Leonard*, 50 Iowa 106; *In re Mitchell*, 4 N. Y. Criminal Reports 596.

<sup>130</sup> *Ex parte Morgan*, 20 Federal Reporter 301; *In re Mohr*, 73 Alabama 513; *In re Voorhees* (N. J.), 3 Vroom 146.

<sup>131</sup> *Ex parte Morgan*, 20 Federal Reporter 299.

<sup>132</sup> *In re Fetter* (N. J.), 3 Zab. 315.

But the objections considered above were not those which were mainly responsible for the bitter controversy arising over the affair. In his special message to the House of Representatives on March 3, 1860, Governor Kirkwood very succinctly stated that his reasons for refusing to honor the Virginia demand were:

1st — The affidavit presented, was not made before "a magistrate," but before a Notary Public.

2d — Even had the law recognized an affidavit made before a Notary Public, the affidavit in this case was not authenticated by the Notary's seal.

3d — The affidavit does not show, unless it be inferentially, that Coppoc was in the State of Virginia at the time he "aided and abetted John Brown and others," as stated therein.

4th — It did not legally "charge him" with commission of "treason, felony or other crime."<sup>133</sup>

Immediately upon the publication of the message embodying Governor Kirkwood's reasons for refusal there sprang up intensely acrimonious discussions in Iowa and Virginia as to the justifiable nature of Governor Kirkwood's grounds for refusal. These discussions completely eclipsed all previous controversies concerning the question. Much doubt existed then and still exists as to the absolute justification, from the standpoint of constitutional law, of the grounds assumed by Governor Kirkwood in his statement of reasons for refusal.

As stated above, interstate rendition depends upon the rendition clause of the Federal Constitution and upon Congressional enactments — more especially the statute of 1793.<sup>134</sup> A slight modification of this statute was brought

<sup>133</sup> Shambagh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 383.

<sup>134</sup> "Whenever the executive authority of any State or Territory demands any person as a fugitive from justice of the executive authority of any State or Territory to which such person has fled, and produces a copy of an indictment found or an affidavit made before a magistrate of any State or Territory,

about by the Congressional enactment of September 16, 1850, which, however, is not of primary importance in relation to the question of rendition in the Coppoc case.<sup>135</sup>

The statute of 1793 provides unequivocally that the charge upon which the demand for rendition is based may be made in either of two ways — by “the copy of an indictment found, or an affidavit made before a magistrate” in the demanding State or Territory.<sup>136</sup> What could be plainer than this? Yet out of this statement arose a question of much moment in the Coppoc controversy.

The demand for Coppoc made by Governor Letcher of Virginia was supported in the charge by an affidavit which had been sworn to before one S. H. Boykin, a notary public in and for the city of Richmond, Virginia. Upon taking cognizance of the demand, the question immediately arose in the mind of the Iowa executive as to whether a notary public, as such, was a magistrate within the meaning of the Federal statute of 1793. After due consideration his conclusion was that a notary public was not such a magistrate. Upon this conclusion was based the first of the enumerated grounds for refusal.

This, moreover, seems to have been the weak point in Governor Kirkwood's own defense as set forth in his legislative message. It appears that his contention in this instance was the result of a somewhat superficial view or knowledge of Federal legislation relating to interstate

charging the person demanded with having committed treason, felony, or other crime, certified as authentic by the governor or chief magistrate of the State or Territory from whence the person so charged has fled, it shall be the duty of the executive authority of the State or Territory to which such person has fled to cause him to be arrested and secured.”— *United States Revised Statutes*, Section 5278. See also *United States Statutes at Large*, 2nd Congress, 2nd Session, Vol. I, p. 303, Chap. VII, Sec. 1.

<sup>135</sup> 9 *United States Statutes at Large* 458.

<sup>136</sup> *United States Revised Statutes*, Sec. 5278.

rendition. In reality it was a plain case of splitting hairs. Nevertheless, his point would have been a legitimate one if the later enactment of 1850 had not rendered the argument invalid.

Governor Kirkwood's contention was that the term "magistrate" within the meaning of the statute of 1793 could not, as a legal term, be properly applied to a notary public. In the rigid application of the term "magistrate", the Governor was technically correct — his view being supported by judges as well as by codifiers of our civil and criminal laws who declare that a "magistrate" is "a public civil officer, invested with some part of the legislative, executive, or judicial power, given by the Constitution or the law";<sup>137</sup> or a magistrate is "any justice of the peace, judge of probate court, municipal judge, police judge, mayor of an incorporated city or village, or one who is authorized to issue warrants of arrest, examine and punish those guilty of crime".<sup>138</sup> Again it is said that the term "magistrate" means "an inferior judicial officer, as a justice of the peace, and it does not include a notary public",<sup>139</sup> and can be properly used in application "to justices only".<sup>140</sup>

From the cases cited it is obvious that a notary public could not be considered a magistrate. Indeed, a notary

<sup>137</sup> *Martin vs. State*, 32 Arkansas 124, 127, 128; *Childers vs. State*, 30 Texas Court of Appeals 160; 28 American State Reports 899; 16 Southwestern 903, 905.

<sup>138</sup> *Revised Statutes of Oklahoma*, 1903, Section 2694; *Cobbey's Annotated Statutes of Nebraska*, 1903, Section 2378; *Revised Codes of N. Dak.*, 1899, Section 7885; *Criminal Code of N. Y.*, 1903, Sec. 147, 959; *Penal Code of S. Dak.*, 1903, Sec. 816; *Annotated Codes and Statutes of Oregon*, 1901, Sec. 1582; *Revised Statutes of Utah*, 1898, Sec. 4607; *Code of Criminal Procedure of South Dakota*, 1903, Sec. 90; *Penal Code of California*, 1903, Sec. 807; *Ballinger's Annotated Codes and Statutes of Washington*, 1897, Sec. 4690; *Penal Code of Idaho*, 1901, Sec. 5220.

<sup>139</sup> *Cayon vs. Dwelling House Insurance Company*, 68 Wisconsin 510; 32 Northwestern 540, 542.

<sup>140</sup> *Schultz vs. Merchants' Insurance Company*, 57 Missouri 331, 336.

public is merely "a person authorized to administer oaths; one who attests instruments",<sup>141</sup> and whose power is comparable in no manner to that held by a "magistrate". The latter has very largely judicial and discretionary power; while the former has largely if not wholly ministerial power, the functions of each differing radically.

By the Federal statute of September 16, 1850, it was declared that thereafter notaries were authorized to administer oaths and take acknowledgments in all cases where, under the laws of the United States, justices of the peace were formerly authorized to act.<sup>142</sup> In accordance with this statutory provision, therefore, the notary public had full power to act in the capacity of a magistrate in witnessing the affidavit and attaching his jurat thereto. No other construction has been placed upon this provision. Now in the case of the Coppoc requisition the law had been satisfied; and Governor Kirkwood was plainly in error when he at first refused to recognize the notary public as acting with magisterial power in giving validity to the requisition.

The political enemies of Governor Kirkwood in Iowa united with the Virginia authorities in protesting that the Iowa Governor had consciously and designedly ignored the provisions of the later enactment. This, if true, would have been unpardonable in the chief executive of any State. It

<sup>141</sup> *Chandler vs. Hanna*, 73 Alabama 390, 394; *Kirksey vs. Bates* (Alabama), 7 Porter 529, 531; 31 American Decisions 722; *Wheeler vs. Burckhardt*, 34 Oregon 504; 56 Pacific Reports 644, 645.

<sup>142</sup> "That in all cases in which, under the laws of the United States, oaths, or affirmations, or acknowledgments may now be taken or made before any justice or justices of the peace of any State or Territory, such oaths, affirmations, or acknowledgments may be hereafter also taken or made by or before any notary public duly appointed in any State or Territory, and, when certified under the hand and official seal of such notary, shall have the same force and effect as if taken or made by or before such justice or justices of the peace."—*United States Statutes at Large*, Chap. LII, 1st Session, 31st Congress, Vol. IX, p. 458; see also *United States Revised Statutes*, Sec. 1778.

does not appear, however, that he deliberately ignored the law of 1850, for when his attention was called to it, he quickly called Governor Letcher to task for suppressing the most important portion of the law. Indeed he says: "It is true I had not seen this act [that of 1850] when I refused the warrant for Coppoc's arrest; but if I had seen it, my action would have been the same",<sup>143</sup> since provisions of this same law specify that such an affidavit made before a Notary Public has "force and effect" only when "certified under his hand and official seal."<sup>144</sup>

This last quoted provision of the law of 1850 provides the grounds upon which Governor Kirkwood based his second reason for non-compliance with the Virginia request. Moreover, this premise appears to be altogether tenable since Governor Letcher, while admitting the absence of a seal, maintained that it was rendered valid by possessing a scroll "in precise conformity with established usage and the decisions of our courts, which recognize scrolls as seals."<sup>145</sup> As a matter of fact "established usage and the decisions of our courts" have defined a seal, which was required to be placed upon this instrument, as being "an impression upon wax or wafer, or some other tenacious substance capable of being impressed."<sup>146</sup> Such a definition, it should be borne

<sup>143</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 384.

<sup>144</sup> *United States Revised Statutes*, Sec. 1778; *United States Statutes at Large*, Chap. LII, 1st Session, 31st Congress, Vol. IX, p. 458.

<sup>145</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 397.

<sup>146</sup> *Allen vs. Sullivan R. Co.*, 32 New Hampshire 446; *Coit vs. Millikin* (N. Y.), 1 Denio 376; *Bank of Rochester vs. Gray* (N. Y.), 2 Hill 227; *Town of Solon vs. Williamsburgh Sav. Bk.*, 114 N. Y. 122; 21 *Northeastern* 168; *State ex rel. West vs. Thompson*, 49 Missouri 188; *Alt vs. Stoker*, 127 Missouri 466; 30 *Southwestern* 132; *Cochran vs. Stewart*, 57 Minnesota 499; 59 *Northwestern* 543; *Bradford vs. Randall*, 22 Massachusetts (5 Pick.) 496; *Osborn vs. Kistler*, 35 Ohio State 99; *Cromwell vs. Tate's Ex'r.* (Va.), 7 Leigh 301; 30 *American Decisions* 506; *Perrine vs. Cheeseman*, 11 New Jersey Law Reports (6 Halst.)

in mind, was not a creation of a later day by the American judiciary, but had back of it the practice and precedent of both the Civil Law of Rome and the Common Law of England.

The Common Law has from its very inception laid fully as sharp a construction upon what constitutes a seal as has ever been imposed by the United States courts. Lord Coke, one of England's foremost jurists, stated in one of his decisions that this law (the Common Law) absolutely required that a seal, defined as "an impression upon wax", should be used upon or affixed to every important instrument of whatever nature that instrument might be.<sup>147</sup> American jurists have repeatedly recurred to this interpretation of the Common Law meaning of "seal" to substantiate their position that "the seal must be impressed upon wax or wafer" in order to be a seal.<sup>148</sup> They further contend that an actual seal is "not mere words or lines in writing",<sup>149</sup> but is a device stamped upon paper.

When Governor Kirkwood called the attention of the Virginia executive to the fact that the notary's affidavit was not validated by a seal, as required by law and as defined above, the latter official made, as noted, the assertion that the affidavit was rendered valid by a scroll which according to "usage and judicial precedent" was equivalent to a seal. The correctness of such a position has always been gravely questioned and has been the subject of much judicial controversy.

174; 19 American Decisions 588; *Tasker vs. Bartlett*, 59 Massachusetts (5 Cush.) 359; *Woodman vs. York and C. R. Co.*, 50 Maine 549; *Hopewell Township vs. Amwell Township*, 6 New Jersey Law Reports (1 Halst.) 169; *Bates's Annotated Statutes of Ohio*, 1904, Sec. 4; *Warren vs. Lynch* (N. Y.), 5 Johns. 239; *Beardsley vs. Knight*, 4 Vermont 471; Code of Iowa, 1851, Sec. 26.

<sup>147</sup> Coke, 3 Institutes 169; *Trasher vs. Everhart* (Maryland), 3 Gill & J. 237.

<sup>148</sup> *Bank of Rochester vs. Gray* (N. Y.), 2 Hill 227.

<sup>149</sup> *Ross vs. Bedell*, 12 N. Y. Superior Court (5 Duer) 462.

Judicially defined, a scroll is "a flourish of or any mark made by a pen, in imitation of a seal, at the end of or under the name. The usual mode is to make a circular, oval, or square mark opposite the name of the signer. This usually encloses the initial letters 'L. S.'"<sup>150</sup>

It has been repeatedly maintained by able jurists, not only of the United States but of England as well, that such a device cannot be deemed as meeting the requirements of a seal.<sup>151</sup> It is true that not a few of our States have, by statutory law, declared its legality as a seal; but calmer judicial construction does not hold such enactments tenable as a legislative practice, but on the contrary as rather precarious.

In almost every instance where suit has been brought upon an instrument attested by a scroll instead of an impressed seal it has been decided that such action must be brought as in "assumpsit"<sup>152</sup> and not as in "covenant".<sup>153</sup> This construction has now been quite generally incorpo-

<sup>150</sup> *Trasher vs. Everhart* (Maryland), 3 Gill & J. 234; *Taylor vs. Glaser* (Pennsylvania), 2 Serg. & R. 502.

<sup>151</sup> *Town of Solon vs. Williamsburgh Savings Bank*, 114 N. Y. 122; 21 *Northeastern* 168; *Gates vs. State*, 13 Missouri 11; *Leroy vs. Beard*, 49 *United States* 451; *Douglas vs. Oldham*, 6 *New Hampshire* 150; *Corlies vs. Vannote*, 16 *New Jersey Law Reports* (1 Har.) 324; *Warren vs. Lynch* (N. Y.), 5 *Johns*. 239; *McLaughlin vs. Randall*, 66 *Maine* 226; *Waln vs. Waln*, 53 *New Jersey Law Reports* 429; 22 *Atlantic* 203; *Blackwell vs. Hamilton*, 47 *Alabama* 470; *Providence Telegram Pub. Co. vs. Craham Engraving Co.*, 24 *Rhode Island* 175; 52 *Atlantic* 804; *Cromwell vs. Tate's Ex'r.* (Virginia), 7 *Leigh* 301; 30 *American Decisions* 506; *Goff vs. Russell*, 3 *Kansas* 212; *Walker vs. Kelle*, 8 *Missouri* 301; *Glasscock vs. Glasscock*, 8 *Missouri* 577; *Breitling vs. Marx*, 123 *Alabama* 222; 26 *Southern* 203; *Richard vs. Boller* (N. Y.), 6 *Daly*. 460.

<sup>152</sup> Action brought to recover on an undertaking made orally and not under seal or by matter of record. See *Leroy vs. Beard*, 8 *Howard* 451.

<sup>153</sup> Action brought to recover upon an undertaking executed under seal. See *United States vs. Brown*, 24 *Federal Cases* No. 14,670; *McLaughlin vs. Hutchins*, 3 *Arkansas* (Pike) 207; *Stickney vs. Stickney*, 21 *New Hampshire* (1 *Foot.*) 61; *Ewins vs. Gardner*, 49 *New Hampshire* 444; *Leroy vs. Beard*, 8 *Howard* 451.

rated in our civil and criminal codes. Some of our codes have provided that a scroll will be accepted as a seal except when made use of by an official of State or county — thus plainly placing the stamp of disapproval upon its use by a person in his official capacity,<sup>154</sup> as was the case with the Virginia notary in question. Indeed, the liberal tendency regarding the value of the scroll is a development of later years and was not in practice in Governor Kirkwood's time. Nevertheless, this liberal tendency would not have legalized this use of the scroll since it was used by a public official in his official capacity and not by a person acting in a private or corporate capacity.

It is true that the Code of Iowa at one time recognized the employment of the scroll as a seal, but with the express provision "that the seal be referred to in the body of the instrument."<sup>155</sup> But the *Code of 1851* abolished private seals altogether,<sup>156</sup> and provided, moreover, that every notary public should have a seal.<sup>157</sup> Hence the affidavit and jurat in this instance had no legalizing quality within the meaning of the Iowa law.

This phase of the question brings us again to the consideration of one form of "comity". Strict constructionists of the Federal Constitution would be inclined to resort to the

<sup>154</sup> *Revised Statutes of Utah*, 1898, Sec. 2495; *Penal Code of Georgia*, 1895, Sec. 2.

<sup>155</sup> "That any instrument of writing to which the maker shall affix a scrawl by way of seal, shall be of the same effect and obligation, to all intents, as if the same was sealed: *Provided*, That the seal be referred to in the body of the instrument."—*Revised Statutes of the Territory of Iowa*, 1842, Chap. 112, Sec. 36.

<sup>156</sup> *Code of Iowa*, 1851, p. 153.

<sup>157</sup> *Code of Iowa*, 1851, p. 17.

Governor Letcher also emphasized the point that even though the affidavit lacked the notarial seal it received much greater authenticity than the notary could give it, since it was stamped by the Governor with the great seal of the State of Virginia.—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 397.

provision which states that "full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state"<sup>158</sup> to support the claim of legality for the scroll used as a seal in this particular affidavit since the laws of Virginia so recognize the scroll. Insistence upon interstate comity in this connection must, however, be made without due and proper regard for two surviving principles of Roman Law which still stand as revered and abiding principles of present day judicial practice — the *lex loci contractus* and the *lex fori*.

It is a general principle of international law that the nature, validity, and effect of an instrument is to be determined by the law of the country where it is made. This is known as the *lex loci contractus*. The manner of its enforcement, however, or the form of action to be taken to make the instrument operative, in other words the remedy, is dependent upon the law of the country in which the remedy or enforcement is sought. This constitutes the principle of the *lex fori*.<sup>159</sup> The term "remedy" as used in this connection is taken to mean whether action should be in "assumpsit" or "covenant".

Now the principles of the *lex loci* and *lex fori* as applied to the Coppoc case meant that the nature and validity of the demand for requisition were wholly dependent upon the laws of Virginia, while the enforcement of the demand depended as fully upon the laws of Iowa where the requisition was sought to be made operative. And so "the sufficiency of the seal of an instrument executed in one state but contemplating performance in another state is to be tested and

<sup>158</sup> Constitution of the United States, Article IV, Sec. 1.

<sup>159</sup> Steele vs. Curle (Kentucky), 4 Dana 381; Andrews vs. Herriot (N. Y.), 4 Cowen 508; Trasher vs. Everhart (Maryland), 3 Gill & J. 234; Bank of U. S. vs. Donnally, 8 Peters 361; Dorsey vs. Hardesty, 9 Missouri 157; Broadhead vs. Noyes, 9 Missouri 55; Douglas vs. Oldham, 6 New Hampshire 150; Leroy vs. Beard, 8 Howard 451.

governed by the laws of the latter state; and where the remedy upon a written instrument depends upon the question whether it is sealed or unsealed, it is well settled that the sufficiency of the seal is to be tested by the *lex fori* and not the *lex loci contractus*.”<sup>160</sup>

Very clearly Governor Kirkwood's action related to the remedy and for that reason was governable by the principle of the *lex fori* — in this instance the laws of Iowa. Since those laws did not recognize such an instrument as being legally drawn, the conclusion must necessarily be that the Iowa executive was fully justified in refusing to recognize the demand made for Coppoc's return.

Such are the facts and arguments in substantiation of Governor Kirkwood's second reason for declining to honor the demand of Governor Letcher. But even stronger grounds than this were relied upon by the Iowa executive in defining and maintaining his third premise that “the affidavit does not show, unless it be inferentially, that Coppoc was in the State of Virginia at the time he ‘aided and abetted John Brown and others’, as stated therein.”<sup>161</sup>

Law and precedent demand that, in a matter of so much moment as the case in question, the affidavit “must be so explicit and certain that if it were laid before a magistrate it would justify him in committing the accused.”<sup>162</sup> Even a glance at the statement in the affidavit to the effect that “he [the affiant] verily believes that a certain Barclay Coppoc was aiding and abetting a certain John Brown, and others”<sup>163</sup> would readily convince one that his (Andrew

<sup>160</sup> Warren vs. Lynch (N. Y.), 5 Johns. 239; see also citations in note 159 above.

<sup>161</sup> Shambaugh's Messages and Proclamations of the Governors of Iowa, Vol. II, p. 386.

<sup>162</sup> 6 Pennsylvania Law Journal 414.

<sup>163</sup> The affidavit made by Andrew Hunter was: “City of Richmond, and State of Virginia, to wit: Andrew Hunter maketh oath and saith, that from

Hunter's) sworn belief was merely an inference as far as it concerned Coppoc and his whereabouts at that particular time. But note further the source of information upon which he founds his verity of belief — "from several of the prisoners recently *condemned* and *executed* at Charleston, Virginia"<sup>164</sup> Certainly, in the light of attendant circumstances, this could hardly be advanced as the most reliable source — at least not one which would permit verification of his "belief".

In accordance with well established precedent, such an affidavit must contain "a positive statement of the commission of the alleged crime and that the party is actually a fugitive from that state"<sup>165</sup> where the crime was committed

information received from several of the prisoners recently condemned and executed at Charleston, Jefferson county, Virginia, and from other facts which have come to his knowledge, he verily believes that a certain Barclay Coppoc was aiding and abetting a certain John Brown, and others, who on the sixteenth and seventeenth days of October, in the year 1859, did feloniously and treasonably rebel and commit treason against the commonwealth of Virginia, at a certain place called Harper's Ferry, in said county of Jefferson, and who did then and there feloniously conspire with and advise certain slaves in the county aforesaid to rebel and make insurrection against their masters and against the authority of the laws of said Commonwealth of Virginia — and who did then and there feloniously kill and murder certain Hayward Sheppard, a free negro, and George W. Turner, Fontaine Beckham, and Thomas Barclay — and affiant further states that from information recently received, he verily believes that said Barclay Coppoc is a fugitive from justice, now escaping in the State of Iowa.

"Sworn to before me a Notary Public in and for the city of Richmond, in the State of Virginia, this ninth day of January, 1860."

"S. H. BOYKIN, N. P."

— Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 382.

<sup>164</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 381.

<sup>165</sup> Ex parte Smith, 3 McLean 121; 22 Federal Cases p. 373; In re Fetter (N. J.), 3 Zab. 311; In re Heyward (N. Y.), 1 Sandf. 701; Degant vs. Michael, 2 Carter 396; Ex parte Spears, 88 California 640; 26 Pacific 608; 22 American State Reports 341; Ex parte Morgan (D. C.), 20 Federal Reports 298; Smith vs. State, 21 Nebraska 552; 32 Northwestern 594.

and not constructively so. Furthermore, "flight is not to be inferred, but proved and established beyond a reasonable doubt";<sup>166</sup> while the "fugitive" is entitled under the act of Congress "to insist upon proof that he was in the demanding state at the time he is alleged to have committed the crime charged, and subsequently withdrew from her jurisdiction, so that he could not be reached by her criminal processes."<sup>167</sup>

Where an affidavit as to flight accompanies a demand for rendition it *must* charge positively and directly the commission of crime.<sup>168</sup> The affidavit under consideration does not state in any positive manner, but only by inference, that Coppoc committed a crime. The instrument does say that there is a belief upon the part of the affiant that Coppoc was "aiding and abetting" in the commission of some crime, as stated, but this is stated as a mere belief and as no positive statement of fact. Hence the affidavit is "fatally defective".<sup>169</sup>

Furthermore, in thus alleging that Coppoc "aided and abetted" in the commission of crime, the affiant is stating a legal conclusion. This is a question of law—a question, therefore, which must be left to a court to decide and not to the allegation of an individual under oath.<sup>170</sup> As such al-

<sup>166</sup> *In re Doo Woon* (D. C.), 18 Federal 898; *In re Jackson*, 2 Flippin 183; 13 Federal Cases No. 7125; *Ex parte Reggel*, 114 U. S. 642, 643, 651, 652; *State ex rel. vs. Justus*, 84 Minnesota 243; *Roberts vs. Reilly*, 116 United States 96.

<sup>167</sup> *Ex parte Reggel*, 114 United States 642; *In re Mohr*, 73 Alabama 503; 18 Central Law Journal 252; *In re Rogers* (Sup.), 15 Miscellaneous Reports 303; 36 N. Y. Supplement 888; *In re Heyward*, 3 N. Y. Superior Court 701; *Ex parte Cubreth*, 49 California 436; *In re Fetter* (N. J.), 3 Zab. 311; 57 American Decisions 382; *In re Voorhees* (N. J.), 3 Vroom 141.

<sup>168</sup> *Ex parte Smith*, 3 McLean 121; 22 Federal Cases No. 12,968. Consult also references in note 167.

<sup>169</sup> *Ex parte Rowland*, 35 Texas Criminal Records 108; 31 Southwestern 651.

<sup>170</sup> *Ex parte Smith*, 3 McLean 121; 22 Federal Cases No. 12,968.

legation it is worthless as evidence of the real fact concerning Coppoc's charged criminal relations with Brown and his band. For this reason it would seem that Governor Kirkwood was justified in considering the evidence contained in the affidavit as lacking the proper positive character.

Again, the affidavit only showed evidence of constructive and not of actual flight from Virginia. No statement contained therein can be made to take the meaning of actual presence upon the part of Coppoc in Virginia at any time before, during, or after the raid into Virginia. The fact of his actual presence there should have been positively set forth.<sup>171</sup> Hence, if a crime was committed by him against the laws and citizens of Virginia it was constructively committed. Such crimes do not come "within the class of cases intended to be embraced by the Constitution or Acts of Congress".<sup>172</sup> If such person afterward enters that State's jurisdiction, a rendition demand may then properly issue if he later flees that State's jurisdiction. "No one can in any sense be alleged to have 'fled' from a State, into the domain of whose territorial jurisdiction he has never been corporally present."<sup>173</sup>

The extradition clause<sup>174</sup> of the Federal Constitution and

<sup>171</sup> *Ex parte Smith*, 3 McLean 121; 22 Federal Cases No. 12,968; *Jones vs. Leonard*, 50 Iowa 106; *Wilcox vs. Nolze*, 34 Ohio State 520; *In re Mohr*, 73 Alabama 503; *Tennessee vs. Jackson*, 36 Federal Reports 258; *Hartman vs. Aveline*, 63 Indiana 344.

<sup>172</sup> *In re Mohr*, 73 Alabama 513.

<sup>173</sup> *In re Mohr*, 73 Alabama 513; *Wilcox vs. Nolze*, 34 Ohio State 520; *Ex parte Smith*, 3 McLean 121; *In re Jackson*, 2 Flippin 183; *Ex parte Swearingen*, 13 South Carolina 82; *In re Fetter* (N. J.), 3 Zab. 311; *Jones vs. Leonard*, 50 Iowa 109; *In re Heyward* (N. Y.), 1 Sandf. 708; *In re Cook*, 49 Federal Reports 833; *Tennessee vs. Jackson*, 36 Federal Reports 258; Hurd on "*Habeas Corpus*" (2d. Ed.), p. 612.

<sup>174</sup> *Constitution of the United States*, Art. IV, Sec. 2, Cl. 2. For statement of clause cited see note 115 above.

the statutes of Congress<sup>175</sup> enacted to render this clause more effective and applicable do not refer to all classes of criminals, but only to those who have fled from the justice of the State where the crime was committed.<sup>176</sup> Hence their provisions do not apply to crimes not actually committed, but merely constructively committed, within the jurisdiction of the State making the demand.<sup>177</sup>

The question whether a person sought is a fugitive from the justice of another State is a question of fact and not one of law.<sup>178</sup> The decision upon this question rests wholly and solely with the Governor of the State upon whom the demand is made — at least until that decision may be overthrown by contrary proof.<sup>179</sup> The Governor of such State does not fail in the performance of his duty if, before surrendering the accused, he requires that it be shown him by competent and incontestable proof that the accused is actually fleeing from justice.<sup>180</sup> The certified statement of the demanding Governor that such person has fled is not competent evidence that he has done so and hence cannot be accepted as such.<sup>181</sup>

The competency of such proof as offered in evidence of flight is left solely to the discretion of the chief executive of the State upon which demand has been made. "The gov-

<sup>175</sup> *United States Revised Statutes*, Sec. 5278.

<sup>176</sup> *Ex parte Smith*, 3 McLean 121; 22 Federal Cases No. 12,968; *United States vs. Smith*, Bunner's Collection 87; *United States vs. Brown*, 2 Lowell 267; *United States vs. O'Brian*, 3 Dillon 381; *State vs. Washburne*, 48 Missouri 240; 6 Pennsylvania Law Journal 418; 24 American Jurist 326; *Case of Kimpton*, 12 American Law Review, 181.

<sup>177</sup> *In re Mohr*, 73 Alabama 503.

<sup>178</sup> *Roberts vs. Reilly*, 116 United States 80; *In re Jackson*, 2 Flippin 183; 13 Federal Cases No. 7125.

<sup>179</sup> *Roberts vs. Reilly*, 116 United States 80.

<sup>180</sup> *Ex parte Beggel*, 114 United States 642; *Roberts vs. Reilly*, 116 United States 80; *Cook vs. Hart*, 146 United States 183.

<sup>181</sup> *In re Jackson*, 2 Flippin 183; 13 Federal Cases No. 7125.

ernor can insist upon the production of whatever he deems necessary or important properly to inform him on the subject of the accused being a fugitive from justice."<sup>182</sup> The executive discretion is here practically uncontrolled by Federal restriction since Federal law does not describe the character of the evidence required, nor the precise rules by which the fact of flight may be established.<sup>183</sup> Instead of stating facts which would have formed proper and competent evidence in support of the demand, the affidavit merely stated the bare conclusion of the deponent and, therefore, could not be admitted as competent evidence.

Since the commission of the crime charged and the flight from justice, if such it was, were purely constructive in nature,<sup>184</sup> since the Federal Constitution and statutes do not recognize such constructive acts, and since no competent evidence supporting the demand was offered, but merely the legal conclusion of the affiant as to the commission of the deed charged, no chief executive could legally and justly honor a demand so made and supported.

It does not suffice, however, within the summary provisions of the Federal statutes<sup>185</sup> that the affidavit be executed by a magistrate and attested by his official seal and that the question of flight be positively shown, but there must also be a substantial charging of some crime — "treason, felony, or other crime" — made against the person sought to be returned. Upon this last condition Governor Kirkwood took the stand that no crime had been so charged in the demand or accompanying papers.

<sup>182</sup> *Roberts vs. Reilly*, 116 United States 96.

<sup>183</sup> *State ex rel vs. Justus*, 84 Minnesota 243.

<sup>184</sup> *Ex parte Morgan* (D. C.), 20 Federal Reports 298.

<sup>185</sup> If crime had been committed as charged in the affidavit it was purely constructive since at no time during his stay at or near the Kennedy Farm had Barclay Coppoc crossed the river into Virginia, in fact he had not at any time during his life entered that State.

The leading case here is that of Joseph Smith, the "Mormon Prophet", who was sought to be returned to Missouri from the State of Illinois in 1842.<sup>186</sup> In many respects it parallels that of Coppoc in its essential features. The affiant in this case errs in the same manner as does the affiant in the Coppoc case when he states that he "believes" that certain things and conditions are and were existent. No facts are stated in either case upon which anyone could base an action legally justifiable. If either affiant had the facts at his command he should have stated them in order that the Governor of the State making the demands would have been able to justify his official action. In neither affidavit is found incorporated any facts whatever, but merely a statement of belief. Judge Pope in handing down his opinion in the case of Smith declared that the Missouri executive had no possible grounds upon which to base his demand.<sup>187</sup> There was no substantial charging of crime committed against Missouri laws whatever, but merely the expression of a legal conclusion which could not be competent.

This was precisely the situation in the Coppoc case. No facts are stated that could have provided the least possible basis upon which the Virginia executive could found his demand. Such papers could never be received as evidence of crime committed, if such there had been, justifying the tak-

<sup>186</sup> Joseph Smith was charged with being an accessory before the fact in an attempt made upon the life of one L. W. Boggs, in Jackson County, Missouri, on May 6, 1842. The Governor of Missouri issued a demand, for his return to Missouri, upon the Governor of Illinois in which State Smith then was. Smith resisted rendition, carrying the case to the United States Circuit Court for the District of Illinois. The claim was set up that Smith had not been in Missouri between February 10, 1842, and July 1, 1842, inclusive, but during all of this period had been in Nauvoo, Illinois, more than three hundred miles away from the home of Boggs. Judge Pope refused to order the surrender of Smith to the Missouri authorities. This case embodies practically all the essential features of the Coppoc case.

<sup>187</sup> *Ex parte Smith*, 3 McLean 121; 22 Federal Cases No. 12,968.

ing away from a citizen his right to liberty and the transporting of him to another State, there to be placed on trial for a crime alleged to have been committed within its borders, but the allegation of which was not supported by a single competent fact as evidence.

Coupled with the failure to directly charge that the alleged act was committed in Virginia is the additional defect that no statement is made whether such act as charged was a crime against the Virginia laws. One may infer that it was, but the Constitution and statutes make it mandatory that the charges must be absolute and explicit in statement. These are not so<sup>188</sup> since there is lacking the direct statement that crime has been committed against Virginia laws. This should have been so direct and clear as to justify a magistrate in committing the accused to answer the charge.<sup>189</sup>

The Virginia notary, Boykin, was here at fault — doubtless due to the inadequacy of his knowledge concerning extradition laws. Before issuing the affidavit he should have required the production of incontestable evidence showing distinctly that a crime had been committed against Virginia laws and as explicitly setting forth the place of commission.<sup>190</sup> The spirit of the law will permit of no inference as to where the crime charged was committed.<sup>191</sup>

The almost invariable interpretation of our courts has been that an affidavit in which the deponent swears "that he has reason to believe" or "believes from information received from others" that some one person or persons has or

<sup>188</sup> In re Fetter (N. J.), 3 Zab. 314; In re Heyward, 3 N. Y. Superior Court (1 Sandf.) 701; In re Heyward, 1 Code Reporter (N. Y.) 45.

<sup>189</sup> Ex parte Hart, 63 Federal Reports 249; 6 Pennsylvania Law Journal 414; In re Jackson, 2 Flippin 183; 13 Federal Cases No. 7125.

<sup>190</sup> In re Fetter (N. J.), 3 Zab. 314; Ex parte Smith, 3 McLean 121; 22 Federal Cases No. 12,968; Ex parte Swearingen, 13 South Carolina 83.

<sup>191</sup> In re Heyward, 3 N. Y. Superior Court (1 Sandf.) 701.

have committed crime is an affidavit issuing upon suspicion and with nothing else as its foundation.<sup>192</sup> The extradition laws of Congress can never be satisfied by such a charge. Now this is identically the nature of the charge made in the affidavit attested by Boykin.

Hearsay or indirect statements offered as evidence or proof can never be accepted in any court as fully substantiating a charge.<sup>193</sup> The affidavit in the Coppoc case was sworn to solely upon such evidence — being based upon information and belief. No chief executive may issue a demand upon “rumor, or the mere representation of a person.”<sup>194</sup> In this instance it was issued upon the representation of the deponent and no other basis — a plain violation of the spirit and intent of the law.

Again, no person can be legally charged with the commission of crime when there exists no jurisdiction to try him. If so charged, it can only mean that the authority charging possessed the power of jurisdiction to do so. The right to try means jurisdiction over the place of commission and the person committing the offense, as all precedent tends to maintain.<sup>195</sup> All evidence presented in the Coppoc case tends to show that he had never at any time gone within the jurisdiction of Virginia; and yet the officials of that Commonwealth presumed to possess the power of jurisdiction and actually arrogated it to themselves in charging him with crime and attempting to secure his rendition — a pure legal absurdity. Virginia had no possible hope of securing Coppoc upon such a representation, unless it were possible for that State to maintain successfully that her jurisdiction

<sup>192</sup> *Ex parte Morgan*, 20 Federal Reports 298; *Ex parte Smith*, 3 McLean 121; 22 Federal Cases No. 12,968.

<sup>193</sup> *In re Rutter*, 7 Abbott's *Practice Reports* (New Series) 67.

<sup>194</sup> *In re Jackson*, 2 Flippin 183; 13 Federal Cases No. 7125.

<sup>195</sup> *Ex parte Morgan*, 20 Federal Reports 308.

extended to crimes committed in other States — a theory of jurisdiction that is untenable.<sup>196</sup>

No attempt whatever was made to show that the notary issuing the affidavit had made himself familiar with the facts; nor was any evidence presented to prove that the deponent was in any way familiar, other than by hearsay, with the substance of "the belief" concerning Coppoc to which he swore. To authorize the removal of an alleged fugitive from the State where found to another State for trial on a charge of crime something more than the oath of a party, unfamiliar with the facts, that he believes the allegations which he makes in an information to be true should be required and is demanded by law. "To hold otherwise would enable irresponsible and designing parties to make false charges with impunity against those who may be the subjects of their enmity."<sup>197</sup> Thus it would seem that the Virginia executive, in the light of such statements as made in this affidavit, had no right in law to issue a warrant for the rendition of Barclay Coppoc.<sup>198</sup>

The crime alleged to have been committed by Coppoc was committed, if committed at all, in early October of the year 1859, while the charging affidavit was made upon January 9, 1860. It would seem that in nearly three months of time a reasonably energetic person would have had time to either dissipate or confirm his suspicions. He had had at least sufficient time in which to collect facts, if such existed, upon which to swear out an information and with which to legally support himself in deposing to an affidavit rather than to state his belief.<sup>199</sup> What must be the conclusion? That actual, confirmed facts were wanting upon which a legal charge could be based.

<sup>196</sup> Ex parte Smith, 3 McLean 121; 22 Federal Cases No. 12,968.

<sup>197</sup> Ex parte Hart, 63 Federal Reports 260.

<sup>198</sup> Ex parte Smith, 3 McLean 121; 22 Federal Cases No. 12,968.

<sup>199</sup> Ex parte Smith, 3 McLean 121; 22 Federal Cases No. 12,968.

According to well established principles of procedure, which have been nearly universally followed in our courts of law, evidence of such a character should have been offered as would have made a *prima facie* case.<sup>200</sup> On the contrary, the papers offered were open to the widest criticism upon the basis of their legal irregularity. Markedly irregular and insufficient were they concerning the properly charging with crime and the statement of necessary facts showing Coppoc to have been a fugitive from the justice of Virginia. As noted, they should have been explicit and regular in these respects, and especially concerning the question of flight since the "fact of fleeing lies at the foundation of the right to issue the warrant of rendition."<sup>201</sup>

A calm review of Governor Kirkwood's action in refusing the demand for rendition made possible through the distance of the years when we are far removed from the period of heated controversy and impending conflict enables us to note the justness and legality of his course. With only one ground for refusal ill-founded — while the remaining three are sustained as points well taken — we may note a clarity of legal perception united with a strength of conviction which did not permit the inflamed sectionalism of the South nor the rabid partisanship of the North to dictate his course of action. One cannot help but commend the judicious stand assumed by Governor Kirkwood in the case of Barclay Coppoc.

#### SUBSEQUENT LIFE OF BARCLAY COPPOC

Concerning the subsequent life of Barclay Coppoc but little remains to be told. Upon his return to Iowa from Ohio in 1860 he went to Kansas where, on July 24, 1861, he was commissioned lieutenant in the Third Kansas Volun-

<sup>200</sup> In re Jackson, 2 Flippin 183; 13 Federal Cases No. 7125.

<sup>201</sup> In re Jackson, 2 Flippin 183; 13 Federal Cases No. 7125.

teer Infantry. This regiment was commanded by one Col. Montgomery, well known for his prominence in the Kansas war.

Coppoc was authorized by Col. Montgomery to secure recruits for the regiment and with this purpose in view he returned to Springdale where he secured the enlistment of eleven young men who had been his schoolmates and constant companions since early boyhood. While returning to Kansas with these men his life was brought to a close in nearly as tragic a manner as was that of his brother Edwin. While the train which was bearing him and his companions to Kansas was crossing the Platte River near St. Joseph, Missouri, the bridge, which had been partially burned by rebel guerrillas, gave way precipitating it into the river more than eighty feet below.

Coppoc survived until the following day when he succumbed to the injuries received. His remains were buried with fitting military honors in the beautiful Pilot Knob Cemetery at Leavenworth, Kansas. Cedar County, Iowa, has not forgotten the sacrifice made by her valiant and patriotic son, and graven with the names of other Civil War heroes upon a commemorative shaft in Tipton, Iowa, may be read the name of Barclay Coppoc.

THOMAS TEAKLE

THE STATE HISTORICAL SOCIETY OF IOWA  
IOWA CITY IOWA

## SOME PUBLICATIONS

*Collections and Researches Made by the Michigan Pioneer and Historical Society.* Vol. XXXVIII. Lansing: State Printer. 1912. Pp. viii, 798. Portraits, plates, maps. Even to mention all of the papers found in this large volume would be impossible. Consequently the following selection of articles which are of general interest outside of Michigan has been made: *The Boundary Lines of the United States Under the Treaty of 1782*, by Clarence M. Burton; *The Gateways of the Old Northwest*, by Frederick L. Paxson; *Unexplored Fields in American History*, by Claude H. Van Tyne; *The Dutch Pioneers of Michigan*, by Martin L. D'Ooge; *Amusements in Detroit in Colonial Days*, by Clarence M. Burton; *History of Fort Malden or Fort Amherstburg*, by Francis Cleary; *French and Indian Footprints at Three Rivers on the St. Joseph*, by Blanche M. Haines; *An Introduction to the Settlement of Southern Michigan from 1815 to 1835*, by George Newman Fuller; *Michigan's Share in the Establishment of Improved Transportation Between the East and the West*, by Lew Allen Chase; *Sketch of the Life of John Scott Horner*, by Elizabeth Horner Burling; and *Some Early Maps of Michigan*, by William L. Jenks.

The paper by Professor Van Tyne on *Unexplored Fields in American History* is deserving of special mention because of its emphasis upon the importance of monographic studies of subjects in State and local history. The writer laments the fact that State and local historical literature is so largely made up of what may be called annals, while there are so few critical, scientific monographs.

*Transactions of the Illinois State Historical Society for the Year 1910.* (Publication Number Fifteen of the Illinois State Historical Library.) Springfield, Illinois: State Printers, 1912. Pp. xi, 219. Portraits, plates, maps. The contents of this volume are divided into five parts, the first of which contains the record of the official proceedings of the Society for the year 1910. Part two contains

the papers read at the annual meeting of the Society, among which may be mentioned: *The West and the Growth of the National Ideal*, by Frederic L. Paxson; *The Life and Services of Alfred Orendorff*, by James A. Creighton; *Negro Slavery in Illinois*, by John P. Hand; *The English Settlement in Edwards County, Illinois*, by H. J. Strawn; *Illinois and the Revolution in the West, 1779-1780*, by James A. James; *The Origin and Development of the Bill of Rights in the Constitution of Illinois*, by Herman G. James; and *The Kensington Rune Stone*, by George T. Flom.

Part three is entitled *Contributions to State History* and contains a brief but critical sketch by J. F. Seward bearing the title *La Salle a Victim to his Error in Longitude*, which is illustrated by several early maps of the lower Mississippi Valley. Under the heading of *Documents* in part four may be found the *Pioneer Letters of Gershom Flagg*, edited with introduction and notes by Solon J. Buck. The letters contain an entertaining account of the experiences of a typical pioneer of the Middle West, and the editing is done in a thorough, scholarly manner. Part five is made up chiefly of the index to the volume. The one regrettable feature of the volume is the fact that the Society does not receive the support which would enable it to publish such valuable material in a more attractive and permanent style.

*The Story of Old Fort Dearborn.* By J. SEYMOUR CURREY. Chicago: A. C. McClurg & Co. 1912. Pp. 174. Portraits, plates, maps. This little volume contains a brief, popular account of the history of old Fort Dearborn, rather than a critical study which would serve as a reference work. There are no citations of sources and no index, hence the book is little more than a new edition of a tale that has often been told. Nevertheless, the story is worth the telling and Mr. Currey's book is written in a readable, entertaining style. There are three chapters, the first of which deals briefly with the voyage of Marquette and Joliet, and other events in the early history of the vicinity of Chicago. The second and third chapters are devoted respectively to the fortification of the frontier by the United States government and the tragedy at Fort Dearborn. In

the latter chapter the author evidently draws largely upon the account written by Mrs. Kinzie.

*Collections of the Nebraska State Historical Society.* Vol. XVI. Edited by ALBERT WATKINS. Lincoln: The Nebraska State Historical Society. 1911. Pp. viii, 296. Portraits, plates, maps. As is stated in the editor's preface, this volume "is a departure from the plan of former publications of the Society in two important respects. Heretofore the minutes of the business transactions have been incorporated with papers upon historical subjects in the same book, while here the policy of printing the two classes of matter in separate volumes has been inaugurated. The second departure appears in the greatly improved quality of the publication". The book is well printed from clear type on good paper, and is bound in an attractive manner. The Society is to be commended for inaugurating the policy of putting out its publications in durable form.

Space forbids more than a mere mention of some of the many interesting papers and addresses contained in the volume. The first sixty-five pages are devoted to the addresses delivered at the dedication of the Astorian monument at Bellevue, Nebraska, on June 23, 1910. Among the papers which occupy the remainder of the volume may be mentioned the following: *Early Days in and About Bellevue*, by Edward L. Sayre; *Kansas-Nebraska Boundary Line*, by George W. Martin; *Territorial Evolution of Nebraska*, by Albert Watkins; *Reminiscences of the Indian Fight at Ash Hollow, 1855*, by Richard C. Drum; *The Last Battle of the Pawnee with the Sioux*, by William Z. Taylor; *Some Sidelights on the Character of Sitting Bull*, by Doane Robinson; *The Early Settlement of the Platte Valley*, by David Anderson; *Birth of Lincoln, Nebraska*, by Charles Wake; *History of Fort Kearny*, by Albert Watkins; and *Missionary Life Among the Pawnee*, by John Dunbar. A more comprehensive index would have increased the usefulness of the volume.

## AMERICANA

## GENERAL AND MISCELLANEOUS

*The International Grand Jury* is the subject of a paper by William I. Hull, which has been printed in pamphlet form by the American Society for Judicial Settlement of International Disputes.

Two pamphlets published in July and August, respectively, by the American Association for International Conciliation are: *The Irrationality of War*, by Sir Oliver Joseph Lodge; and *The Interest of the Wage-Earner in the Present Status of the Peace Movement*, by Charles Patrick Neill.

*The List of Works Relating to the West Indies* is continued in the June, July and August numbers of the *Bulletin of the New York Public Library*. In the June number may be found an account of an *Exhibition of Portraits of American Indians*; and a letter entitled *Baron Howden on Irish Affairs in 1843*.

*The Truth About Chickamauga* is the subject of an article by Edward L. Anderson which occupies the opening pages of the *Journal of the United States Cavalry Association* for September. Other articles are: *Cavalry Raids — Their Value and How Made*, by C. R. Day; and *The Confederate Cavalry*, by Percy C. Standing.

Bulletins issued by the Virginia State Library in January and April are devoted respectively to *A Complete Index to Stith's History of Virginia*, compiled by Morgan Poitiaux Robinson; and *A Finding List of Books Relating to Printing, Book Industries, Libraries and Bibliography in the Virginia State Library*.

In *The Scottish Historical Review* for July may be found the following articles: *Student Life in St. Andrews Before 1450 A. D.*, by James Robb; *John Bruce, Historiographer*, by W. Foster; *A Secret Agent of James VI*, by J. D. Mackie; *San Viano: A Scottish Saint*, by J. Wood Brown; and another installment of the *Chronicle of Lanercost*, by Sir Herbert Maxwell.

Among the articles in *The South Atlantic Quarterly* for July are the following: *Thomas Fuller and his "Worthies"*, by Lawrence C. Wroth; *National Insurance in England*, by William Thomas Lap-

rade; *Ancient and Modern Letters*, by Lane Cooper; *The Nashville Convention and Southern Sentiment of 1850*, by Farrar Newberry; and *Life and Adventure in the Far East*, by William H. Wanner.

The following articles may be found in *The American Economic Review* for September: *Will the Present Upward Trend of World Prices Continue?*, by Irving Fisher; *The Report of the Tariff Board on Cotton Manufactures*, by Melvin T. Copeland; *A Balanced Tariff*, by Harry Brookings Wallace; *Jevons' "Theory of Political Economy"*, by Allyn A. Young; and *Opportunity Cost*, by Lewis H. Haney.

The opening contribution in *The Quarterly Journal of Economics* for August is a discussion of *Ricardo's Criticisms of Adam Smith*, by Robert A. Macdonald; other articles are: *A Group of Trusts and Combinations*, by W. S. Stevens; *The Relation Between Kinds of Statistical Units and the Quality of Statistical Material*, by G. P. Watkins; and *Some Problems in Market Distribution*, by A. W. Shaw.

Among the articles in *The Survey* during the past three months are the following: *The Legal Aftermath of the Lawrence Strike*, by James P. Heaton; *Social Progress*, by Julian W. Mack; and *Organized Industry and Organized Religion*, by Graham Taylor (July 6); an editorial comment on *The Jails and Prisons of Iowa* (July 20); *The Rich Town and the Poor Schools*, by May Ayres (August 3); *With Arizona's First Legislature*, by H. A. E. Chandler (August 17).

*Industrial Competition and Combination* is the general subject to which the various articles in the July number of *The Annals of the American Academy of Political and Social Science* are devoted. The articles are grouped under several headings, such as the effect of industrial combinations on labor conditions, competition as a safeguard to national welfare, the relation of industrial combinations to national welfare, the policy of other countries with reference to industrial combinations as compared with that of the United States, the effect of the Sherman Anti-trust Law on the business of

the country, and the elements of a constructive national policy with reference to industrial combinations. The merits, limitations, and results of *The Initiative, Referendum and Recall* are discussed in the September number by such writers as Jonathan Bourne, Henry Jones Ford, John A. Fairlie, S. Gale Lowrie, W. F. Dodd, William Draper Lewis, and others.

The *Report of the Eighteenth Annual Lake Mohonk Conference on International Arbitration*, held on May 15-17, 1912, contains a large number of instructive papers and addresses. Among the general topics discussed at the various sessions of the conference were the status and needs of the international peace movement, treaties of arbitration, international courts, international legislation, the Third Hague Conference, business and international arbitration, and the relation of international arbitration to education.

The reasons for the belief in an El Dorado and some facts concerning modern treasure hunters are stated in the installment of the study of *The Quest for El Dorado*, by J. A. Manso, which appears in the June number of the *Bulletin of the Pan American Union*. In the July number there is a description of *Secretary Knox's Mission*, and an article on the *Eighteenth Congress of Americanists*, by Charles Warren Currier. The same writer is the author of a sketch of *The Dead City of Cajamarquilla*, which appears in the August number.

*The Legendary and Myth-making Process in Histories of the American Revolution* is the subject of an article by Sydney G. Fisher which appears in the April-June number of the *Proceedings of the American Philosophical Society*. In the July number may be found a paper on *The Diary of A Voyage to the United States, by Moreau de Saint-Mery*, by Stewart L. Mims. The diary covers the years from 1793 to 1798, during which time the author remained in America, chiefly in Philadelphia, to escape political persecution in France.

*The Shadow of a Great Strike: The Miners' Victory*, by Samuel Gompers; chapter two of *Railroad Strikes Since 1877*, by Arthur E. Holder; and *Woman Labor in Germany*, by Hans Fehlinger, are

articles in the *American Federationist* for July. In the August number there is a discussion of *Initiative, Referendum, and Recall*, by Samuel Gompers, which is continued in the September issue, where may also be found the following articles: *The Horizon of Industrial Democracy*, by F. C. Thorne; and *International Trade Unionism*, by James Simpson.

*Workmen's Compensation Legislation in the United States of America*, by C. W. Garrett, is an article accompanied by three elaborate tables which opens the April number of *Human Engineering*. Other contributions are: *History and Analysis of the Washington Compensation Act*, by Paul E. Page; *Inspection for Safety*, by William W. Doolittle; *The Efficiency Society*, by H. J. F. Porter; *The Human Element*, by Luther Gulick; *The Reorganization of a Department of the Government*, by G. v. L. Meyer; and *A Survey of the Education of Corporation Employees*, by F. C. Henderschott.

Robert MacDougall discusses *The Social Basis of Individuality* in the July number of *The American Journal of Sociology*. Joseph Henry Crooker writes on *The Psychology of Drink*; Arthur K. Rogers treats of *Burke's Social Philosophy*; and "American Lawlessness": *An Inquiry* is the subject of an article by Victor S. Yarros. Among the contents of the September number may be mentioned the following articles: *General Sociology*, by Albion W. Small; *Applied Sociology (or Social Technology)*, by Charles Richmond Henderson; and *The Variability of the Popular Vote at Presidential Elections*, by F. Stuart Chapin.

*The Taxation of Franchises in California*, by Carl C. Plehn; *German Municipal Socialism as Illustrated by Ulm*, by Karl Frederick Geiser; *Efficiency Standards in Municipal Management*, by Jesse D. Burks; *Financial Results Under the Commission Form of City Government*, by Ernest S. Bradford; *What Wisconsin is Doing for its Cities*, by Ford H. MacGregor; and *Preferential Voting and How it Works*, by Reginald Mott Hull, are the leading articles in the *National Municipal Review* for July. The remainder of the number is taken up with the usual amount of valuable notes on current municipal affairs.

The practical workings and results of *The Initiative and the Referendum in Switzerland* are described by William E. Rappard in the August number of *The American Political Science Review*. Frank G. Bates discusses *Village Government in New England*, and there is a second installment of the study of *The Parliament Act of 1911*, by Alfred L. P. Dennis. Intoxicating liquors, juvenile courts, life insurance legislation of 1911, medical milk commissions, State boards of control, and presidential primary elections are subjects discussed in the department of *Notes on Current Legislation*, conducted by Horace E. Flack.

*The Battery Park, New York City*, by William S. Pelletreau; part two of the discussion of *The United States and the Movement for International Arbitration and Peace*, by Victor Hugo Duras; and an unsigned sketch of the *Campaign Songs of a Century* are among the articles in the June number of *Americana*. In the July number may be found an account of some *Incidents in the Life of a Revolutionary Officer*, by J. C. Pumpelly; and a discussion of the question *Was Thomas Paine an Infidel at Heart?*, by Ernest C. Moses. *The Promoter's Part in the Colonization of New England*, by Ernest H. Baldwin; *The First English Settlement in New York*, by William S. Pelletreau; and *Reminiscences of John James Audubon* may be mentioned among the articles in the August number.

*Procedure in Criminal Courts*, by William N. Gemmill; *The Immigrant in the New York County Criminal Courts*, by Robert Ferrari; *A Contribution to the Catamnestic Study of the Juvenile Offender*, by Bernard Glueck; and *The Unit in Criminal Statistics*, by Louis N. Robinson, are among the articles in the July number of the *Journal of the American Institute of Criminal Law and Criminology*. In the September number may be found the following contributions: *Some Fundamental Problems of Criminal Politics*, by Guilio Q. Battaglini; *The Treatment of Crime — Past, Present and Future*, by Warren F. Spalding; *Negro Crime and Strong Drink*, by Booker T. Washington; *Police Gleanings*, by Joseph Matthew Sullivan; *The Court of Domestic Relations of Chicago*, by William H. Baldwin; and *The Burrell Oates Case*, by Chester T. Crowell.

*Paying for Alaska: Some Unfamiliar Incidents in the Process* is the subject of an article by William A. Dunning, which opens the September number of the *Political Science Quarterly*. Hattie Plum Williams presents an interesting discussion of *The Road to Citizenship: A Study of Naturalization in a Nebraska County*. Other articles are: *Present Problems in Railway Regulation*, by William Z. Ripley; the first installment of *Recent Tax Reforms Abroad*, by E. R. A. Seligman; *How Germany Deals with Workmen's Injuries*, by Eva Elise vom Baur; and the third chapter of the study of *Turkey in Europe*, by William M. Sloane.

*Big Business and the Citizen* is the subject discussed by Holland Thompson in the July number of *The American Review of Reviews*. Albert G. Robinson points out *The Need of a Tariff Board, or Commission*; Agnes C. Laut outlines *What the West Expects from Panama*; and Henry W. Elson describes *Making a New Constitution for Ohio*. In the August number may be found the following articles: *A New Party: Do the People Want it?*, by Albert Bushnell Hart; and *The Growing American Bureaucracy*, by Jonathan Bourne, Jr. Among the contributions in the September number may be mentioned *The Progressives at Chicago*, by William Menkel; *The Logic of the Coming Party Alignment*, by Jesse Macy; *The Efficiency of Labor*, by Charles Buxton Going; and *Publicity and Trusts*, by Robert Luce. In this number may also be found an editorial tribute to Professor Macy under the heading: *A Great Teacher of Politics*.

#### WESTERN

A small volume recently issued from the Army Service Press deals with *Fort Leavenworth, Its Churches and Schools*. Henry Shindler is the author.

Logan Esarey is the author of a monograph on *State Banking in Indiana, 1814-1873*, which appears in the number of the *Indiana University Studies* published in April.

Among the articles in *The University of California Chronicle* for July are: *Education in the Philippine Islands*, by Julian R. Arnold; *The Theatre as a Power*, by William Faversham; and *Red Letter Annals of the Library*, by Joseph C. Rowell.

*The Work of the Pioneers*, by A. J. Ladd, is a chapter in the educational history of the United States which occupies the opening pages in *The Quarterly Journal of the University of North Dakota* for October. Another article, written by John Adams Taylor, deals with *The Evolution of College Debating*.

Among the contributions in the March-May number of *The American Antiquarian* may be mentioned the following: *Deed of Acceptance, and an Edict Against Abuse of Martial Law in Egypt*, by H. Clifford Gibbons; *The Primeval North-American*, by Charles Hallock; *Early Semitic Adventures and Semitic Lore*, by N. Kolkin; *The Ruins of Puye*, by Alton Howard Thompson; and *The Cornplanter Medal for Iroquois Research, and Reuben Gold Thwaites*, by Frederick Starr.

#### IOWANA

In *The Grinnell Review* for July there is a brief article on *The Retirement of Professor Macy*.

An interesting address on the *Old Settlers* appears in the *Keosauqua Republican* of September 12, 1912.

A series of articles on the *Early History of Cornell College*, written by Jessie Rigby, has been running in the *Mount Vernon Record*.

A description of the new dam across the Mississippi River at Keokuk is to be found in a pamphlet entitled *Electric Power from the Mississippi River*.

In the *Pella Chronicle* of July 18, 1912, there is an interesting account of the early settlement of the Hollanders in Marion County, written by Jasper Olney.

Under the heading *Fort Madison in the Olden Times* in the *Fort Madison Democrat* of August 30, 1912, may be found some interesting reminiscences written by H. C. Stempel.

The *Souvenir Program* of the forty-seventh annual picnic of the Dubuque County Early Settlers' Association and the Veteran Volunteer Firemen contains, in addition to the program, a *Brief History of Julien Dubuque*.

*The Constitution and Proceedings of the Iowa State Federation of Labor* at the annual convention held at Muscatine in June, 1912, have been published in pamphlet form.

The *Ames Daily Intelligencer* for July 9, 1912, contains a sketch of the life of Isaac Craig, who came to Story County in 1853. Mr. Craig traveled across Iowa in 1846-1847 with Brigham Young and his party of Mormons.

The *Biography of Alexander Hale Smith*, by Inez Smith, is continued in the July, August, and September numbers of *Autumn Leaves*. In the August number may be found a discussion of *Some Advantages of a College Education*, by J. A. Gunsolley.

*Taxes Levied by Iowa Town Councils*, by A. W. Osborne; and *The Significance of the Civic Center*, by John Galen Howard, are articles in the July number of *The City Hall—Midland Municipalities*. In the August number A. Barnett discusses *The Commercial Club and City Officials*.

Besides continuations the following contributions are to be found in the July number of the *Journal of History* published at Lamoni by the Reorganized Church of Jesus Christ of Latter Day Saints: *Autobiography of Andrew Johnson, of Magnolia, Iowa*; and an *Autobiographical Sketch of Ida Etzenhouser*.

John E. Brindley is the writer of an account of *The State Tax Conference* held at Des Moines in March, 1912, which appears in the July number of *Iowa Factories*. George T. Bell discusses *The Long and Short Haul Clause*. In the September number there is a paper on *The County Assessor and Tax Commission System*, by John E. Brindley.

*Bulletin No. 27* issued by the Engineering Experiment Station at Ames contains *A Study of Iowa Population as Related to Industrial Conditions*, by John E. Brindley. The work is divided into three chapters which contain, respectively, a statistical study of Iowa population from 1840 to the present time, a discussion of the causes and remedies of a declining population, and conclusions. Numerous tables and charts illuminate the text.

The seventh number of the series of articles on the *Presidents of the University*, by Theodore A. Wanerus, is to be found in the June number of *The Iowa Alumnus*. This article deals with the presidency of Christian W. Slagle, 1877-1878. Laenas G. Weld is the writer of a brief sketch descriptive of the *Piney Woods Industrial Institute at Braxton, Mississippi*.

*Vocational Education*, by C. F. Curtiss; and *The Banker in his Relation to the Public Welfare*, by B. F. Harris, are addresses which are printed in the July number of *The Northwestern Banker*. In the September number there is a discussion of *Conservation the Biggest Problem of To-day*, by James J. Hill; and an article entitled *Bright Business Outlook*, by George M. Reynolds.

An address on *The Iowa Road Dragging Law*, by Sam C. Smith is to be found in the July number of *The Road-Maker*. In the August number Mrs. Lelia Munsell discusses *The Old Santa Fe Trail*; and there is a transcript of *The Proposed Oregon Convict Labor Law*. In September the following articles appear: *Development of Road Laws in America*, by J. E. Pennybacker, Jr.; *The Good Roads Problem*, by C. R. Spencer; *Synopsis of Road Administration*, by L. E. Boykin; and an account of the preparations for *The American Road Congress*.

Among the contents of *The American Freemason* for July may be found an editorial on the *Centennial of the Grand Lodge of Louisiana*; and an article on *Freemasonry as it is in France*, by A. G. Pitts. In the August number the editor discusses the *Historical Background of the Masonic Revival of 1717*; C. F. Halowell writes on *Anti-Masonic Times and Present Dangers*; and W. B. Seymore tells of *Moorish Influence on Masonry*. The editorial last mentioned is continued in the September number, where may also be found a discussion of *The Operative Lodges*, by Frederick Armitage.

The issue of the *Ottumwa Courier* for August 10, 1912, contains a large number of historical articles, among which may be mentioned: *Early Recollections of Pioneer Days in Ottumwa*, by Josiah Myers; *Agency in Early Days*, by William Nye; *Early Attempt*

*to Get Railroads for City*, by W. H. C. Jacques; *History of Early Newspapers of Iowa*, by Edgar R. Harlan; *Recollections of the Indians*, by A. W. Rankin; *Incidents of Early Life as an Iowa Lawyer*, by J. G. Meek; *Early Railroads Entering Ottumwa*, by W. H. H. Asbury; *Early Recollections of Ottumwa*, by Alvin C. Leighton; *Benjamin A. Spaulding, Ottumwa's First Minister*, by Julia Spaulding; *Early History of Wapello Bar*, by John F. Lacey. Many other articles dealing with various phases of Ottumwa history might be mentioned.

The *Proceedings of the Thirteenth Iowa State Conference of Charities and Corrections*, which was held at Iowa City in November, 1911, have been distributed. Among the many papers to be found in the volume are: *Recent Social Legislation in Iowa*, by Forest C. Ensign; *Is Iowa a Good Parent*, by Henry E. C. Ditzen; *The Social Survey as Applied to Public Charity*, by G. P. Wyckoff; *The County Homes of Iowa*, by J. L. Gillin; *Parole, Employment and Supervision*, by W. H. Berry; *The Iowa Employers' Liability and Workmen's Compensation Commission*, by John T. Clarkson; *Employers' Liability Movement in the United States*, by E. H. Downey; *Needed Labor Legislation in Iowa*, by A. L. Urick; *The Problem of Industrial Diseases, with Especial Reference to Iowa*, by Paul S. Peirce; and *The Consulting Psychologist in the Public Schools*, by C. E. Seashore.

## SOME RECENT PUBLICATIONS BY IOWA AUTHORS

Brainerd, Eleanor Hoyt,

*For the Love of Mary Ann*. New York: Harper & Brothers. 1912.

Brown, Charles Reynolds,

*The Main Points: A Study in Christian Belief*. Boston: The Pilgrim Press. 1911.

Burdette, Robert Jones,

*The Silver Trumpets*. Philadelphia: Sunday School Times Co. 1912.

Elliott, Francis Perry,

*The Gift of Abou Hassan*. Boston: Little, Brown & Co. 1912.

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- Fellows, Ernest Wilder,  
*A Comparative Study of City School and Rural School Attendance.* Iowa City: State University of Iowa. 1912.
- Gillette, Halbert Powers,  
*Earthwork and its Cost.* New York: McGraw-Hill Co. 1912.
- Glaspell, Susan,  
*Lifted Masks.* New York: Frederick A. Stokes Co. 1912.
- Hughes, Rupert,  
*Miss 318 and Mr. 37.* New York and Chicago: Fleming H. Revell Co. 1912.
- Huntington, Ida M.,  
*A Christmas Party for Santa Claus.* New York: Rand McNally & Co. 1912.
- Macy, Jesse,  
*Party Organization and Machinery* (Revised Edition). New York: Century Co. 1912.
- Metcalf, Arthur,  
*The Green Devil, or The Secret of Thornton Abbey.* Boston: The Pilgrim Press. 1912.
- Meyerholz, Charles H.,  
*History and Government of Iowa.* New York and Chicago: Educational Publishing Co. 1912.
- Newton, Joseph Fort,  
*The Eternal Christ.* New York and Chicago: Fleming H. Revell & Co. 1912.
- Sabin, Edwin L.,  
*Pluck on the Long Trail.* New York: Thomas Y. Crowell & Co. 1912.
- Springer, Arthur,  
*History of Louisa County, Iowa.* Chicago: S. J. Clarke Publishing Co. 1912.
- Stapp, Emilie Blackmore,  
*Uncle Peter — Heathen.* Philadelphia: McKay Publishing Co. 1912.
- Van der Zee, Jacob,  
*The Hollanders of Iowa.* Iowa City: The State Historical Society of Iowa. 1912.

## SOME RECENT HISTORICAL ITEMS IN IOWA NEWSPAPERS

*The Register and Leader*

Charles Elliott Perkins Foundation will Encourage Western Historical Research Work, July 7, 1912.

Founder of Humboldt in Politics out West, July 7, 1912.

George Sneer, a Pioneer, by L. F. Andrews, July 14, 1912.

W. I. Langsdale of Center Point, Iowa, Belonged to Walker Expedition, July 28, 1912.

Papers of Enormous Bulk in Law Case Pending Forty-two Years, July 28, 1912.

Stephen A. Douglas and his One-Man Presidential Campaign Waged During the Year 1860, August 11, 1912.

Did the Father of Charles G. Whappeles Go Through the French Revolution, by F. C. Smith, August 18, 1912.

Queen of the Thousand Islands an Iowa Girl — Incidents in the History of Bellevue, Iowa, by O. H. Mills, August 18, 1912.

The Presidential Campaign that was Won by the Union Guns, August 18, 1912.

George Lendrum, a Pioneer Polk County Sheriff, by L. F. Andrews, August 18, 1912.

The Infancy of the City of Des Moines, by Elizabeth Noel, August 18, 1912.

Coon Point Has Historical Interest, August 25, 1912.

Logic of the Coming Party Alignment, by Jesse Macy, September 1, 1912.

A Laboratory Where Iowa Students Work the Year Round, September 8, 1912.

John L. Stevens, by George Brunton, September 22, 1912.

Caldwell and Dean, One Time Iowa Residents, September 28, 1912.

When Steamboats Plied Cedar River, September 28, 1912.

*The Burlington Hawk-Eye*

In Old Burlington. (In each Sunday issue.)

Sketch of Life of John Stuart Wood, a Civil War Veteran, July 7, 1912.

Lights and Shadows of a Soldier's Life, by Robert J. Burdette, July 14 and August 11, 1912.

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Old Subscription List for State University, July 21, 1912.

Edward S. Brinton, a Washington County Pioneer, July 28, 1912.

G. Walter Barr, Keokuk's Vivid Word Painter, July 28, 1912.

The Decline of Navigation on the Inland Waterways of the United States, by R. B. Dale, August 4, 1912.

Anniversary of Battle of Wilson's Creek, August 11, 1912.

The Passing of the Rafter, August 11, 1912.

Centennial of the First Court House in the State of Illinois, August 18, 1912.

Sketch of Life of Augustus Caesar Dodge, August 25, 1912.

Recalls Old Times in Burlington, August 25, 1912.

When Mark Twain Went Back to Piloting, August 25, 1912.

Tippecanoe and Tyler Too, September 1, 1912.

Mrs. Nancy Hearne, an Iowa Pioneer, September 1, 1912.

History of Y. W. C. A. of Burlington, September 8, 1912.

Major S. H. M. Byers, the Man Who Lived Four Years in Hell, September 8, 1912.

From Indianapolis to Indianapolis — A Civil War Story, by W. P. Elliott, September 8, 1912.

Sketch of Lives of Mr. and Mrs. George T. Auld of Washington, September 29, 1912.

## HISTORICAL SOCIETIES

### PUBLICATIONS

In the *Proceedings of the Bunker Hill Monument Association* for 1912 may be found an address on *The Struggle of Thirteen States for Thirteen Years to Create a Government*, by Winslow Warren.

Continuations of *The German Drama in English on the Philadelphia Stage*, by Charles F. Brede; and *Die Literarische Geschichte des Milwaukeeer Deutschen Bühnenwesens, 1850-1911*, by John C. Andressohn, make up the contents of the May-August number of the *German American Annals*.

Among the contents of the *Historical Collections of the Essex Institute* for June are: a continuation of *Salem Town Records*; a second installment of Sidney Perley's discussion of *Northfields, Salem, in 1700*; and an article on *A Genealogical-Historical Visitation of Andover, Mass., in the Year 1863*, by Alfred Poore.

Among the articles in the September number of the *Journal of the Presbyterian Historical Society* are the following: *Princeton Hymns*, by Benjamin B. Warfield; *A Revolutionary Hero: James Caldwell*, by Harry Pringle Ford; and *Early History of Events Leading to the Organization of the First Presbyterian Church of Mauch Chunk, Penna.*, by Kate McVicker Smith.

*The European Reconquest of North Africa* is the subject of an article by Archibald Cary Coolidge, which opens *The American Historical Review* for July. Other contributions are: *Canada Versus Guadeloupe, an Episode of the Seven Years' War*, by William L. Grant; *The First National Nominating Convention, 1808*, by Samuel E. Morison; and *Lord Ashburton and the Treaty of Washington*, by Ephraim Douglass Adams. Under the heading of *Documents* is printed the *Journal of William K. Beall, July-August, 1812*, contributed by Miles W. Smith.

*Current Anthropological Literature* is the name of a new periodical which made its initial appearance with the January-March number. The magazine, as its name implies, is devoted to book reviews and notes on periodical literature along the line of anthropology. It is published quarterly by the American Anthropological Association and the American Folk-lore Society.

Among the articles in *The Register of the Kentucky State Historical Society* for September are the following: *Historic Homes of Harrodsburg*, by W. W. Stephenson; *The Duel Between John Rowan and Dr. James Chambers*, by J. Stoddard Johnston; *The Story of Three Governors*, by Laurie J. Blakely; *Kentucky Troops in the War of 1812*, by A. C. Quisenberry; and *Wapping Street, Frankfort, Ky.*, by Miss Sally Jackson.

The July number of the *Missouri Historical Review* opens with an article on *The Price Campaign of 1864*, by George S. Grover. *Gov. Joseph W. McClurg and his Administration* is the subject of a paper by James S. Botsford. Other contributions are: *Livingston County Pioneer Settlers and Subsequent Events*, by L. T. Collier; and a continuation of the list of *Monumental Inscriptions in Missouri Cemeteries*.

Some interesting *Recollections of Baltimore*, by Robert Gilmore, occupy the opening pages of the *Maryland Historical Magazine* for September. Among the continuations are: *Maryland's Share in the Last Intercolonial War*, by Arthur Meier Schlesinger; *Letters of Rev. Jonathan Boucher*; and *Land Notes, 1634-1655*. Bernard C. Steiner is the compiler of a list of *The Chief Executive Officers of Maryland During the Provincial Period*.

James C. Strong is the contributor of some *Reminiscences of a Pioneer of the Territory of Washington* which appear in the July number of *The Washington Historical Quarterly*. Sol. H. Lewis presents in brief outline *A History of the Railroads of Washington*. T. C. Elliott furnishes an introduction and editorial notes for the *Journal of John Work, November and December, 1884*. Under the heading of *Documents* may be found the *Journal of William Fraser Tolmie — 1833*.

The Oketee or Devil's Elbow Barony is described by Henry A. M. Smith in the July number of *The South Carolina Historical and Genealogical Magazine* in his series of articles on *The Baronies of South Carolina*. A list of *Stock Marks Recorded in South Carolina, 1695-1721*, is a rather interesting contribution by A. S. Salley, Jr. Joseph W. Barnwell furnishes notes for the *Diary of Timothy Ford*, which will be continued. There is also a continuation of the *Order Book of John Faucheraud Grimké*.

The extracts from *The Randolph Manuscript* which are published in the July number of *The Virginia Magazine of History and Biography* consist of the commission issued to Governor Francis Nicholson in 1702 and the letter notifying him of his removal in 1705. Mrs. N. E. Clement contributes some *Revolutionary Pension Declarations*. Another interesting collection of documents consists of *Letters from G. W. P. Custis to George Washington, 1797-1798*, which are copied from the originals in the library of the Virginia Historical Society.

The June number of the *Records of the American Catholic Historical Society of Philadelphia* opens with a biographical sketch of *The Very Rev. T. J. Donaghoe*. Three pages are devoted to a sketch of *The Catholic Press in the United States of America*. The late Martin I. J. Griffin is the writer of an article on *The Reverend John Nepomucene Goetz, Third Pastor, and the Reverend William Elling, of Holy Trinity Church, Philadelphia*. Another contribution is a list of *Burials of Catholics who Died of Yellow Fever in Philadelphia in 1798*.

*The West and the War with Mexico* is the subject of a scholarly address by William E. Dodd, which appears in the *Journal of the Illinois State Historical Society* for July. E. F. Wells relates some entertaining reminiscences under the heading of *Old Times in Illinois*. The story of *How a Northern Illinois Town Suddenly Became Dry* is told by A. N. Beebe. *Abraham Lincoln and Rock Island County* is the title of an article by J. B. Oakleaf. *Some Evidences of the Route from the Lakes to the Gulf* are presented by J. H. Goodell, who reviews the principal French explorations of

the upper Mississippi Valley. In an article on *The Kaskaskia Indians* J. F. Snyder holds to the old idea that the Illinois Indians visited by Marquette and Joliet were located on the Des Moines River, instead of on the Iowa River as has been so conclusively shown by Professor Weld. Another article is one by N. W. Thornton on *Shabbona, The White Man's Friend*.

The first half of the June-September number of the *Quarterly Publication of the Historical and Philosophical Society of Ohio* is taken up with an interesting account of *The Movement in Ohio to Deport the Negro*, by Henry Noble Sherwood. The remaining pages are occupied with two reprints. The first is a reprint of a pamphlet entitled *A Brief Exposition of the Views of the Society for the Colonization of Free Persons of Colour, in Africa*, published in 1827 by the Ohio State Colonization Society. The other reprint is a memorial entitled *Ohio in Africa*, submitted to the legislature of Ohio in 1851 by the Ohio Committee of Correspondence of the American Colonization Society.

In the March number of *The Quarterly of the Oregon Historical Society* there appears a brief article by Ellen Condon McCornack, entitled *A Glimpse into Prehistoric Oregon*, which, as the editor states, is "the initial paper of a series designed to give a synthetic view of Oregon's past" that will appeal especially to the boys and girls of the State. Walter Carleton Woodward concludes his study of the *Rise and Early History of Political Parties in Oregon*, the two concluding chapters dealing with *The Issues of War and Political Realignment*. T. C. Elliott discusses *The Earliest Travelers on the Oregon Trail*; and there is a brief sketch of the *Centennial of the Arrival of the First White Men in Baker County*, by George H. Himes.

Henry E. Knapp is the writer of a sketch of *General John H. Knapp, the First Permanent Settler of Fort Madison, Iowa*, which occupies the opening pages of the belated October, 1911, number of the *Annals of Iowa*. An excellent analytical description of the *Public Archives of Iowa* is presented by C. C. Stiles, the article being illustrated by a number of cuts. Edward H. Stiles is the writer of a sketch of some *Prominent Men of Early Iowa*; and the

concluding article is a good discussion of *Formative Influences in Early Iowa*, by James L. Hill. An index to the first eight volumes of the *Annals of Iowa* (Third Series) has just been distributed. The preparation of this index has extended over many years and has been participated in by several people, including Miss Mary R. Whitcomb, Miss Alice M. Steele, and Miss Alice Marple.

Except for a brief statement concerning the *Egyptian Research Account, 1912*, the May-June number of the *Records of the Past* is taken up with the following two contributions: *Some Roman Ruins in Tunisia*, by J. G. Winter; and *The Physical Environment of the Southwest in Pre-Columbian Days*, by Ellsworth Huntington. The latter article furnishes an excellent example of one of the uses to which the study of archaeology may be put, namely, an aid in the determination of the character of climatic and physical conditions in prehistoric times. In the July-August number may be found the following articles: *A World-Quarter Shrine to the Tewa Indians*, by W. B. Douglass; and *Palaeolithic Artifacts from Kansas*, by Newton Horace Winchell.

The April and July numbers of the *Ohio Archaeological and Historical Quarterly* are combined in a single issue. The opening pages are devoted to an illustrated sketch of the life of *Major David Ziegler*, written by George A. Katzenberger. Then follows a discussion of the *Archaeological Remains of Jackson County*, by William C. Mills, also illustrated. Other articles are: *Sketch of Cornstalk, 1759-1777*, taken from the Draper manuscripts; *Indians in Union County*, by W. L. Curry; *Some History from an Un-historical Region*, by A. B. Gilliland; *Ohio in the Mexican War*, by Daniel J. Ryan; *Ohio Banking Institutions, 1803 to 1866*, by A. B. Coover; and *Fort McArthur*, which consists of an address delivered in 1895 by A. W. Munson.

#### ACTIVITIES

The new building which will house the Kansas Historical Society is nearing completion, after many exasperating delays.

Mr. J. A. Doelle is the secretary of the Keweenaw Historical Society which was organized at Houghton, Michigan, early in June.

Boone Day, June 7th, was celebrated by the State Historical Society of Kentucky by appropriate ceremonies in the rooms of the Society at Frankfort.

A large pair of elk horns, which were found in the bed of the Des Moines River, has been added to the collections of the Madrid Historical Society.

Bronze tablets to Millard Fillmore and Grover Cleveland were unveiled by the Buffalo Historical Society on May 20th, at the time of the celebration of the fiftieth anniversary of the organization of the Society.

Among the recent acquisitions of the State Historical Society of Missouri are several volumes of early records from such towns as Potosi, Farmington, Ste. Genevieve, and Cape Girardeau, dating back to about 1820.

After a period of eight months during which no meetings were held the Jefferson County Historical Society met at Fairfield on September 4th. A report on the work of the Society and of donations to the collections of the Society was made by the Secretary, Mr. Hiram Heaton.

The annual meeting of the Illinois State Historical Society was held at Springfield on May 23 and 24, 1912, the principal address being given by Professor William E. Dodd of the University of Chicago. The report of the Secretary reveals the fact that the Society now has nearly fourteen hundred members. The chief interest and activity of the Society during the coming year will be the movement to secure an appropriation for the erection of a building. A commission appointed for the purpose of drawing up plans for the proposed building will report at the next session of the General Assembly.

#### THE STATE HISTORICAL SOCIETY OF IOWA

A volume on the *History of Road Legislation in Iowa*, written by Dr. John E. Brindley is now in press. The volume will appear in the *Iowa Economic History Series*.

Mr. Jacob Van der Zee's volume on *The Hollanders of Iowa* has been distributed.

Another volume in the *Iowa Economic History Series*, namely, Professor E. H. Downey's *History of Indemnity for Work Accidents in Iowa* will go to press in the near future.

At the meeting of the Board of Curators on August 7th the officers who have served during the past year were reelected, namely: Euclid Sanders, President; F. E. Horack, Secretary; and Paul A. Korab, Treasurer. At the same meeting Mr. Charles M. Dutcher of Iowa City was unanimously elected a member of the Board of Curators to fill the place left vacant by the resignation of Professor L. G. Weld.

The following persons have recently been elected to membership: Mr. S. M. Corrie, Ida Grove, Iowa; Mr. F. A. Ferguson, Waterloo, Iowa; Mr. L. T. Jones, Iowa City, Iowa; Miss Harriett Kellogg, Ames, Iowa; Mr. D. C. Mott, Marengo, Iowa; Mr. C. W. Ramseyer, Bloomfield, Iowa; Mr. Elmer W. Reading, Council Bluffs, Iowa; Mr. E. E. Squire, Storm Lake, Iowa; Mr. W. W. White, South English, Iowa; Rev. A. W. Armstrong, Norwalk, Iowa; Hon. Nicholas Balkema, Sioux Center, Iowa; Mrs. W. P. Coast, Iowa City, Iowa; Mr. Frank W. Hanton, Griswold, Iowa; Mr. F. E. Haynes, Sioux City, Iowa; Mr. C. H. Kelley, Charles City, Iowa; Mr. W. C. Muilenburg, Grant, Iowa; Mr. Newell W. Pike, Mapleton, Iowa; Mrs. J. B. Allen, Waterloo, Iowa; Mr. R. H. Durboraw, Iowa City, Iowa; Mr. Charles L. Goodwin, Vinton, Iowa; Mr. Harvey Ingham, Des Moines, Iowa; and Mr. Tunis H. Klein, Pella, Iowa.

#### THE RESIGNATION OF PROFESSOR WELD

In accepting the resignation of Professor L. G. Weld as a member of the Board of Curators the following resolution was unanimously adopted by the Board at the August meeting and ordered spread on the records of the Society:

"Dr. Laenas G. Weld has been a member of the Board of Curators of the State Historical Society of Iowa six years, having been first elected on July 5, 1906. During the period of his curatorship he has taken a deep interest in the work of this Society and has

faithfully participated in its administration. To his interest in the history of western exploration is chiefly due the valuable collection of books on western travel and exploration which now forms a part of the Society's library. Dr. Weld also made some valuable contributions to the publications of the Society. It is noteworthy that in 1902, when the Society resolved to issue a critical quarterly under the title of *The Iowa Journal of History and Politics*, Dr. Weld made the first contribution to its pages in a paper entitled *Joliet and Marquette in Iowa*. Moreover, while Dean of the Graduate College and later while Dean of the College of Liberal Arts of the State University of Iowa, Dr. Weld not only expressed genuine sympathy with the work of The State Historical Society of Iowa, but was always ready to coöperate with the Society and to co-ordinate its research activities with the University. It is with profound regret and a deep sense of loss that his resignation is accepted by the Board."

## NOTES AND COMMENT

Professor Henry W. Haynes, whose archaeological researches are well known, died on February 16, 1912.

Among the recent acquisitions of the Virginia State Library is the fee book of Patrick Henry from 1770 to 1795.

Professor Fred M. Fling of the University of Nebraska is delivering a course of lectures during the fall term at Yale University.

Dr. W J McGee, a native of Dubuque County, and one of Iowa's most noted sons in the realms of science, died on September 5, 1912.

The fiftieth anniversary of the Indian massacre at New Ulm, Minnesota, was observed with fitting ceremonies, during the last week of August.

A plan is on foot to mark the site of Honore Tesson's cabin near Montrose, Iowa, as well as the site of old Fort Des Moines in the same locality.

The Onawa Chapter of the Daughters of the American Revolution is making plans for the erection of a monument to the memory of the pioneers of Onawa and Monona County.

During the month of August the last vestige of what was once the town of White Cloud, one of the earliest towns in western Iowa, was removed when the last house on the site of the former town was torn down.

A movement has been inaugurated in Harrison County, Iowa, to prevent the removal from that county of prehistoric remains and to preserve these remains at some suitable place in the county for use as illustrative material in connection with the public schools.

On September 14th a monument to Governor Ninian Edwards was dedicated at Edwardsville, Illinois. At the same time and place the one hundredth anniversary of the session of the first Territorial legislature of Illinois was celebrated.

Among the pioneers and old settlers' meetings and reunions held in Iowa during the past summer were the following: Johnson County Old Settlers' Association at Iowa City, September 12th; North Tama Old Settlers' Association at Traer, September 4th; Scott County Pioneers' Association at Davenport, August 28th; Black Hawk County Early Settlers' Association at Cedar Falls, September 4th; Old Settlers' Association of Lee County at Keokuk, August 9th; Dubuque County Early Settlers' Association at Dubuque, August 8th; Wapello County Old Settlers' Association at Ottumwa, August 22nd; Marshall County Old Settlers' Association at Marshalltown, August 22nd; Webster County pioneers at Fort Dodge, August 21st; Woodbury County pioneers at Sargeant's Bluff, August 15th; Old Settlers' Association of Jackson County at Sabula, June 25th; Hardin County Pioneers' Association near Lawn Hill, August 24th and 25th; Old Settlers' Association of Pottawattamie, Mills, and Fremont Counties at Malvern, September 10th.

## CONTRIBUTORS

**LOUIS BERNARD SCHMIDT**, Research Assistant in The State Historical Society of Iowa and Associate Professor of History in the Iowa State College of Agriculture and Mechanic Arts. Member of the State Historical Society of Iowa, the Mississippi Valley Historical Association, the American Historical Association, and the American Political Science Association. Born near Belle Plaine, Iowa, in 1879. Graduated from Cornell College in 1901. Instructor in History and German in the Webster City High School from 1901 to 1904. Graduate Student in History in the University of Chicago in the Autumn Quarter of 1904 and the Summer Quarter of 1906, and in the University of Wisconsin in the Summer Session of 1905. Professor of History and German in Highland Park College, Des Moines, 1905-1906. Received the degree of A. M. from Cornell College in June, 1906. Assistant Professor of History in the Iowa State College of Agriculture and Mechanic Arts from 1906 to 1911.

**THOMAS TEAKLE**, Research Assistant in The State Historical Society of Iowa. Member of the American Historical Association and of the State Historical Society of Iowa. Born near South English, Iowa. Graduated from the Iowa State Teachers' College in 1904 and from the State University of Iowa in 1911. Instructor in History and Civics, Storm Lake, Iowa, High School, 1904-1907; Principal of the High School, Storm Lake, Iowa, 1907-1910; and Principal of the High School, Pocatello, Idaho, 1911-1912. Winner of the Colonial Dames of America Prize in 1911 for best essay upon some phase of early English colonization in America.



**AN INDEX**  
**TO THE**  
**IOWA JOURNAL OF HISTORY AND POLITICS**  
**VOLUME TEN**  
**1912**



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